



Mobile Environmental Justice Action Coalition

(251) 308-5872

EJ4ALL@MEJACoalition.org

MEJACoalition.org

P.O. Box 717

Mobile, Alabama

36601-0717



June 9, 2023

Alabama Department of Environmental Management
ATTN: Ronald W. Gore
Chief, Air Division
PO Box 301643
Montgomery, AL 36110-1463

Submitted via email to: rwg@adem.alabama.gov; airmail@adem.alabama.gov

Re: ADEM's Proposed Consent Order for Hosea O. Weaver & Sons, Inc., Mobile County, Alabama, for two violations of failure to control particulate emissions from the baghouse stack and one violation of failure to report the test results, Air Permit No. 503-8069-X001

Dear Mr. Gore,

We are submitting these comments on behalf of MEJAC, Mobile Environmental Justice Action Coalition, and GASP ("Commenters") regarding the Alabama Department of Environmental Management ("ADEM") proposal to issue a Consent Order to Hosea O. Weaver & Sons, Inc. ("Permittee"), as owner and operator of an asphalt plant (Asphalt Plant No. 1) located at 1908 Bay Bridge Cutoff Road in Mobile, Alabama 36610 ("Source").¹ The Permittee operates the Source

¹ Alabama Department of Environmental Management, In the Matter of Hosea O. Weaver & Sons, Inc. Mobile, Mobile County, Alabama Facility ID No. 503-8069-X001, [Proposed] CONSENT ORDER

under the authority of ADEM Permit No. 503-8069-X001 ("Permit"), issued to it on September 22, 1998.² Specifically, ADEM is proposing to impose a civil penalty of \$24,000 on the Source for two violations of failure to control particulate emissions from the baghouse stack and one violation of failure to report the test results within 15 working days.

MEJAC was formed in 2013 by residents of Africatown in partnership with regional stakeholders and advocates. MEJAC's mission is to engage and organize with Mobile's most threatened communities in order to defend the inalienable rights to clean air, water, soil, health, and safety, and to take direct action when the government fails to do so, ensuring community self-determination and advocating for environmental justice.

GASP is a nonprofit organization with a mission to advance healthy air and environmental justice in the Greater Birmingham area and throughout Alabama through education, advocacy, and collaboration. That mission includes actively engaging impacted communities on air pollution issues, reviewing air pollution permits, and addressing concerns related to air quality, including environmental justice issues. GASP advocates for more robust public participation and community involvement in matters that affect community members, such as this proposed air enforcement action in Mobile County.

As discussed in our comments, while we are grateful for ADEM's initial inspection activities and penalties, we have numerous concerns regarding ADEM's proposed Consent Order and the compliance status of this Source. Highlights of our comments include the following:

- ADEM has failed to consider the public health impacts of these violations (and other violations not-yet-assessed) as required by law, which is especially egregious given that the emissions from this Source impact the surrounding Africatown environmental justice community that is already disproportionately impacted by air pollution and other environmental hazards. Before finalizing this proposed Consent Order, ADEM must discuss and meet with the impacted community members in order to fulfill its statutory obligation.
- The Source must apply for a title V major source permit because its permit allows for SO₂ emissions at 246.8 tons per year (TPY), well over the 100 TPY threshold for title V.³

NO. _____. (Ex. 1); *see also*, Public Notice, Proposed Consent Order Hosea O. Weaver & Sons, Inc. (Ex. 2).

² ADEM Air Permit No. 503-8069-X001. (Ex. 3).

³ *See* discussion in section IV.

- We recommend a more fulsome joint inspection of the Source with EPA inspectors, given the seriousness of health and environmental impacts, which must include PSD applicability since the Source operated at the compliance limit of the Prevention of Significant Deterioration (PSD) major source permitting limit threshold for SO₂ (246.8 tons per year (TPY)).
- Permit provisions for real-time fenceline monitoring of particulate matter, VOCs, SO₂, odors and hazardous air pollutants (“HAPs”) are needed to ensure continuous compliance and provide the environmental justice community with data of off-property air pollution violations.
- We strongly urge the Source to curtail operations until a complete joint inspection by ADEM and EPA is conducted, all emissions are controlled (*e.g.*, particulate matter, VOCs, SO₂, hazardous air pollutants and odors), and publicly available real-time fenceline monitoring is in place.

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I. Commenters express gratitude to ADEM for inspection of the Source and assessment of the initial penalty.

Commenters are grateful for ADEM's inspections of the Hosea O. Weaver & Sons, Inc. Source and its assessment of the initial penalty. We note that ADEM's October 28, 2021, and November 12, 2021, inspections were a result of "complaints regarding strong odors and dust emanating from Hosea O. Weaver's 400 TPH drum-mix asphalt plant...."⁴ This particular Source has been of serious concern to the Africatown community for more than 25 years. While we think more investigation, inspections, and permitting work are needed on this Source, we are encouraged by ADEM's most recent efforts.

Additionally, we welcome the opportunity to discuss and work with ADEM (and EPA) to bring this Source into compliance with all legal requirements for operation. We also encourage ADEM to assist this Permittee with either revising existing permits or granting new permits to allow operations to move to another location in Mobile County, as its operations and current location at 1908 Bay Bridge Cutoff Road are clearly not compatible with the surrounding historic Africatown neighborhood, which includes the Africatown Historic District recognized by the National Park Service National Register of Historic Places.

II. ADEM – a recipient of federal funds and subject to the Civil Rights Act of 1964 – must take into consideration that this Source is surrounded by the community of Africatown.

As discussed below, ADEM has not yet considered the public health impacts of these violations. The lack of consideration for the public health impacts of these violations is even more egregious given that these emissions impacted an environmental justice community that is already disproportionately impacted by air pollution and other environmental hazards. EPA's EJSCREEN tool shows that the population living within one mile of the Hosea Source has socioeconomic indicators that denote a potential community of concern.⁵ In fact, once ADEM reviews the EJScreen information we include with our comments, they will see that this community is already bearing disproportionate impacts from the types of particulate matter pollution and air toxics emitted during the violating period

⁴ Letter from Ronald W. Gore, Chief, ADEM Air Division, to John Murphy, Hosea O. Weaver & Sons, Inc. (Aug. 4, 2022), <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=104966693&dbid=0>. (Ex. 4). While we appreciate these inspections, there is nothing to indicate the odors were inspected during these visits. Moreover, odors from the Source continue and they have not been addressed.

⁵ Ex. 5, EJScreen Report for the 1 mile surrounding the Source, at pages 3 (denoting this population has an overall demographic index in the 89th percentile in Alabama and 92nd percentile in the United States).

addressed in the proposed Consent Order. The community within one mile of the Source has a particulate matter EJ index that is higher than 87% of the Alabama population, an air toxic cancer risk greater than 99% of Alabama residents, and experiences air toxics respiratory hazard index greater than 97% of the state's residents.⁶ In addition, this community is disproportionately composed of residents who are people of color and poor.⁷

ADEM should have inquired into the impact of these unlawful emissions on the surrounding EJ community during the considerations leading to this Consent Order to determine whether there is any evidence of detrimental health impacts of emissions on this community during the violation period, as well as before and after it.

Before finalizing this Consent Order, ADEM should engage with the community around this Source to determine whether the alleged violations caused “any threat to the health or safety” and whether any such impacts could be better addressed by imposing both a higher penalty and additional corrective measures. Not only would such consideration of the surrounding community fulfill its requirement under Ala. Code § 22-22A-5(18)c to consider “any threat to the health or safety of the public” caused by the alleged Permit violations but it would also help insure that the Department meets its legal duties under the Civil Rights Act.

ADEM – as a recipient of federal funds for enforcement of the air permitting and other programs delegated to it by the EPA – must insure it fulfills its legal duty to protect civil rights as required Title VI of the Civil Rights Act of 1964. Such consideration is required under Title VI because the alleged violations resulted in an emissions impact to a community that already bears disproportionate socioeconomic harms. As discussed in section IV below, it appears that the Source is also a recipient of federal funds and thus it would also be subject to the provisions of Title VI of the Civil Rights Act of 1964.

III. ADEM's proposed Consent Order and accompanying statutory assessment are insufficient and must be revised.

As set forth in the proposed Consent Order, ADEM's contentions are based on inspections conducted at the Source on June 28-29, 2022, and various follow-up activities. Consent Order at ¶¶ 7, 8, 9, 10, 11, 12. ADEM's inspection documented that the Permittee is operating with particulate emissions at the maximum Permit limit, and ADEM issued a letter to the Permittee documenting concerns because

⁶ *Id.* at 1 and 3.

⁷ *See id.* at 3, showing that 80% of the area's population is composed of people of color, which is a concentration greater than that found in 85% of Alabama. The population is also 66% people with low income, which is greater than found in 88% of the state.

there is no compliance margin in their permit and requesting a response. *Id.* at ¶ 7, 8. An August 29, 2022, response from the Permittee indicated that the Source would conduct “quarterly” tests to detect leaks and continue to conduct frequent maintenance to ensure compliance. *Id.* at ¶ 9.⁸ However, such testing was not conducted until December 15, 2022, at which point the test revealed the asphalt plant was operating well over its permit limit – producing particulate matter emissions at an average rate of 0.067 grains per dry standard cubic foot (gr/dscf) instead of the 0.04 gr/dscf allowed under the permit. *Id.* at ¶ 10.

On February 8, 2023, ADEM issued a Notice of Violation (“NOV”) to the Permittee for operating in violation of the Permit by emitting particulate emissions in excess of the 0.04 gr/dscf standard and failing to report the test results to the Department within 15 working days. *Id.* at ¶ 11.

ADEM offers in the proposed Consent Order that it considered the six statutory factors under Ala. Code § 22-22A-5(18)c, *as amended*, to determine the seriousness of the alleged violations and proposes an appropriate penalty. *Id.* at ¶ 14. The factors considered under Alabama law and ADEM’s consideration in the proposed Consent Order are provided in the table below along with Commenters’ concerns regarding the inadequate nature of ADEM’s consideration and the resulting proposed Consent Order.

⁸ See, Letter from Michael Weaver, President, H. O. Weaver & Sons, Inc. to Ronald W. Gore, Chief, Air Division, ADEM, at 1 (Aug. 29, 2022), <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=104966694&dbid=0>. (“H. O. Weaver is implementing mandatory quarterly glow tests with fluorescent dust and black lights at all of our facilities to detect any leakage. We will continue to change bag filters as needed as well as change baghouse seals and drum seals as needed. In addition, we will be contacting Sanders Engineering & Analytical Services, Inc. to provide periodic stack test services to ensure our facilities remain in compliance.”) (Ex. 6).

Table 1. Analysis of ADEM’s Consideration of Ala. Code § 22-22A-5(18)c, Proposed Consent Order with Hosea O. Weaver & Sons, Inc.

Statutory Factor	ADEM’s Consideration in the Consent Order	Commenters’ Concern
<p>Seriousness of the violation ...including any irreparable harm to the environment and any threat to the health or safety of the public</p>	<p>The Department considers these violations to be serious. The Department is not aware of any evidence of irreparable harm to human health or the environment due to these violations. Consent Order at ¶ 13.A.</p>	<p><i>ADEM did not meet its statutory obligation.</i></p>
<p>The standard of care manifested by such person</p>	<p>By not operating the plant in such a manner as to comply with the Permit, the Permittee did not exhibit the requisite standard of care. Consent Order at ¶ 13.B.</p>	<p><i>Permittee appears to operate this Source with a lower standard of care than its other similar facilities.</i></p>
<p>The economic benefit which delayed compliance may confer upon such person</p>	<p>The Department is not aware of any significant economic benefit as a result of the violation referenced herein. Consent Order at ¶ 13.C.</p>	<p><i>Source’s actions resulted in cost savings of not replacing bags sooner, not expending resources on employee time to inspect for compliance with its permit, and not expending resources to test for and abate particulate, odors, HAPs, VOCs and SO₂ pollution emissions.</i></p>
<p>The nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment</p>	<p>The Department is not aware of any efforts made by the Permittee to minimize or mitigate the effects upon the environment due to its non-compliance. Consent Order at ¶ 13.D.</p>	<p><i>Permittee entirely failed to minimize and mitigate the effects its pollution had on the environment for many months.</i></p>
<p>Such person's history of previous violations</p>	<p>On August 2, 2016, the Permittee was issued a Notice of Violation (NOV)</p>	<p><i>Source has a pattern and practice of not inspecting baghouse</i></p>

	<p>due to excessive visible emissions. Subsequently, the Permittee was issued a Consent Order on December 2, 2016, for operating in violation of the Permit by exhibiting visible emissions greater than 20 percent opacity. ¶ 13.E.^{9, 10}</p>	<p><i>for replacement of bags, resulting in violations of opacity regulations and related permit requirements.</i></p>
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⁹ ADEM’s NOV (Aug. 2, 2016), (“Hosea Weaver & Sons, Inc. is hereby notified that on July 13, 2016, it violated 40 CFR Part 60 Subpart I, New Source Performance Standards of Hot Mix Asphalt Facilities, 60.92 (a) (2) by allowing visible emissions of 42%, 57%, 64%, 55% and 56% opacities, during five six-minute averages, to be emitted from the asphalt drum baghouse stack (Unit No. 503-8069-X001). The plume did not appear to be a hydrocarbon plume, because significant tan colored particulate matter trail-off was observed and the plume was attached. These are industry known indicators of a particulate matter emissions problem.”), <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=29984798&dbid=0>.

ADEM also observed and documented two opacity violations on August 15, 2015, but there are no records in eFile regarding follow-up enforcement, <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=29984799&dbid=0>.

ADEM’s August 20, 2015, inspection observed emissions twice in excess of the 20% opacity standard, ADEM sent the Source a certified letter requesting responses and there are no documents of further actions in the file, nor is there a reply from the Source, (“greater than expected emissions were observed twice at the Hosea Weaver and Sons, Inc.'s, asphalt plant located at 1908 Cut-off Road, Mobile, Alabama. An ADEM Air Division staff member took the enclosed pictures to document the attached plume and extensive trail off of visible emissions.”), <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=29986216&dbid=0>. were loaded with no problems noted. I inspected the plant and did not observe any VOC's coming from the loadout silos, or any other problems. Plant and haul roads were damp. Contact was made with Colin Kraft, Plant Operator. Mr. Kraft stated that there had been no issues with the plant, and that they had recently changed the bags in the baghouse. Mr. Kraft also stated that they were careful to keep all bucket elevators and silos closed. I reminded him that Hosea O. Weaver is responsible for maintaining and operating the plant in compliance with all ADEM rules and regulations. Mr. Kraft stated that he understood.”), <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=104660644&dbid=0>.

¹⁰ Moreover, the surrounding community has been subject to uncontrolled emissions from Hosea O. Weaver & Sons, Inc., throughout its operations. In addition to the violation described in Consent Order, we note numerous community issues have been raised over the years, including lack of dust control and particulate spreading from vehicular traffic and odors. ADEM continues to “remind” the Owner and Operator that they may be subject to enforcement action and penalties, and these reminders do not resolve the offsite uncontrolled emission issues. *See e.g.*, “Air Quality Complaints [from Mobile Baykeeper]: Hosea O. Weaver & Sons, Inc.-Asphalt Plant #1” (Nov. 1, 2021 – Nov. 23, 2021), <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=104660646&dbid=0>; *see also*, Letter from Douglas K. Carr, Chief, Energy Branch, Air Division, ADEM, to John Murray, Hosea Weaver & Sons Inc, (Sept. 28, 2015), (regarding results of ADEM’s August 20, 2015, the letter explained that “greater than expected emissions were observed twice at the Hosea Weaver and Sons, Inc.'s, asphalt plant located at 1908 Cut-off Road, Mobile, Alabama. An ADEM Air Division staff member took the enclosed pictures to document the attached plume and extensive trail off of visible emissions. The staff member indicated that the emissions appeared to be in excess of the 20% opacity standard for

The ability of such person to pay such penalty	The Permittee has not alleged an inability to pay the civil penalty. Consent Order at ¶ 13.F.	<i>There is nothing in the record to indicate the Permittee is unable to pay a penalty than proposed, which is needed for deterrent effect.</i>
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The proposed Consent Order also explains that because the Order is a “negotiated settlement” the “Department has compromised the amount of the penalty it believes is warranted in this matter in the spirit of cooperation and the desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.” Consent Order at ¶ 13.G. The Department fails to cite its authority for compromising the penalty amount in this manner.

As seen in the below figure, on at least two occasions at this Source, the impetus for replacing the defective bags – which caused the baghouse to exceed the 20 percent opacity limit – only came *after* ADEM inspected the Source and found visible emissions from the baghouse exceeding the 20 percent opacity limit. As noted in the proposed Consent Order, on August 2, 2016, the Permittee was issued a NOV due to excessive visible emissions. Our review of that NOV and the subsequent documents found that the Source in that earlier instance also failed to exhibit the requisite standard of care. Indeed, in 2016, the Source replaced 220

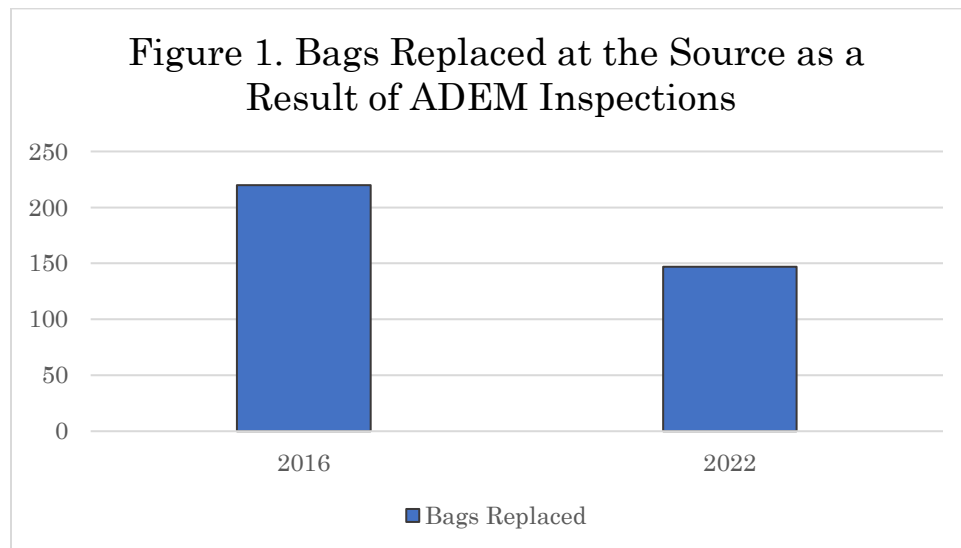
facilities subject to NSPS, Subpart I.” ADEM’s letter requested response to questions and indicated that “[i]f compliance issues are identified in the future, you may be subject to additional enforcement action, such as an order with a monetary penalty.”)

<http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=29986216&dbid=0>; *see also*, Telephone Documentation to File from Ceil M. Jones regarding November 15, 2021, conversation with Michael Weaver regarding dust and odor complaints, including an email from Mobile Baykeeper with photos that show dust that appeared to emanate from the plant and haul roads. “I reminded Mr. Weaver that Hosea 0. Weaver is responsible for compliance with Department rules and regulations at all times. I informed him that the Department may conduct more frequent inspections of the plant as a result of these complaints, and that any observed violations could lead to enforcement action including a monetary penalty. Mr. Weaver stated that he understood.”),

<http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=104660645&dbid=0>; *see also* Memorandum from Ceil M. Jones to Pamela W. Hunt (Nov. 9, 2021), (“inspection was conducted in response to a complaint that was received by the Department on October 28, 2021, regarding VOC emissions and odors emanating from the plant ... The plant was not operating at the time of inspection, but trucks were loaded with no problems noted. I inspected the plant and did not observe any VOC’s coming from the loadout silos, or any other problems. Plant and haul roads were damp. Contact was made with Colin Kraft, Plant Operator. Mr. Kraft stated that there had been no issues with the plant, and that they had recently changed the bags in the baghouse. Mr. Kraft also stated that they were careful to keep all bucket elevators and silos closed. I reminded him that Hosea 0. Weaver is responsible for maintaining and operating the plant in compliance with all ADEM rules and regulations. Mr. Kraft stated that he understood.”),

<http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=104660644&dbid=0>.

bags. And as a result of ADEM's June 2022 inspections, the Source replaced 146 bags on December 17, 2022.



A company should not need to rely on an inspection by the state's permitting authority to learn that it is out of compliance and that it is time to replace the bags in its baghouse. This is not the standard of care envisioned under the Clean Air Act. Hosea was granted an air permit and must abide by the terms of its permit or be subject to continuing violations, penalties and eventually, lose its permit rights.

Furthermore, ADEM must require that the Source install a bag leak detection system and alarm so that when the filter bags need to be replaced the operator is notified.¹¹

As discussed elsewhere in our comments, the Source's sentence in its letter that it will conduct quarterly monitoring is simply not good enough for the community nor is it enforceable by the public, ADEM and EPA. The provisions for compliance with the Clean Air Act must be memorialized in the Source's construction permit and subject to public notice and comment.

Notably, our review of ADEM's eFiles for the other Hosea O. Weaver & Sons, Inc. plants and operations in Mobile did not show that these other facilities have ongoing violations and public concerns similar to those at the Asphalt Plant No. 1 located at 1908 Bay Bridge Cutoff Road. This Plant and its operators are not exhibiting the same standard of care shown by other plants within the Hosea O. Weaver & Sons fleet, which is of concern to Commenters.

¹¹ See e.g., All American Asphalt, Permit to Operate No. G66228 A/N 625347 (Asphalt Storage System No. 3) (Aug. 27, 2021), (Ex. 8), <https://xappprod.aqmd.gov/find//facility/AQMDsearch?facilityID=82207>.

Finally, Commenters do not think that the relatively low amount of the proposed penalty will act as a deterrent for future violations. The Permittee's actions in controlling pollutants and keeping them within the property boundaries are now a reoccurring theme. We strongly urge ADEM to assess a penalty that will actually deter future violations. A higher penalty is clearly needed to ensure that it is the Permittee that routinely inspects and discovers it needs to replace the bags at its baghouse. It must not be the complaints made by the public, which are then followed by ADEM inspections, end up with a result that is replacement of hundreds of bags.

In summary, the Consent Order and ADEM's assessment of the seriousness factor under Alabama's statutory authority is woefully inadequate. The proposed Consent Order summarily dismisses any consideration of whether the violations posed a "threat to the health or safety of the public" as required by the statute that applies to this administrative enforcement action. ADEM must amend its assessment before it finalizes this action.

IV. The Source is operating without required air permits and its existing permit is insufficient.

Hosea O. Weaver & Sons owns and operates the 400 TPH double barrel drum-mix asphalt plant. The Source's construction permit was issued nearly 25 years ago and includes equipment requirements for a baghouse.¹² The permit also allows for the capability to produce a recycled asphalt product (RAP) mix and "utilize a reclaimed fuel oil."¹³

According to ADEM's engineering analysis for the permit issued in 1998, the Source's process involves sand and assorted sizes of crushed stone being dried in a rotary dryer and combined with purchased liquid asphalt to produce asphalt concrete for paving.¹⁴ The plant is equipped with an ASTEC, Model RBH-75, baghouse that removes dust particles from the exhaust gases generated in the drying process.¹⁵ The baghouse is designed to be capable of removing particulate matter with an efficiency in excess of 99%,¹⁶ and the permit is based on this efficiency assumption with no margin for compliance or error or any adjustment for age of the Source and its controls, which is unacceptable to the Commenters.

ADEM's engineering analysis explains that SO₂ emissions are limited to 246.8 TPY by allowing this Source to burn no more than 4,700,000 gallons of fuel oil

¹² Ex. 3 at 1.

¹³ *Id.*

¹⁴ Engineering Analysis for ADEM Permit No. 503-8069-X001. (Ex. 7).

¹⁵ *Id.*

¹⁶ *Id.*

with a sulfur content not to exceed 0.7%.¹⁷ ADEM appears to have used this analysis in an attempt to allow the Source to escape PSD permitting. However, ADEM's engineering analysis only considered PSD construction permitting and not the applicability of the Clean Air Act's title V operating permit program, which requires permitting for any source that emits or has the potential to emit more than 100 tons per year of regulated pollutants such as SO₂.¹⁸ Given its fuel usage and actual and potential SO₂ emissions, the Source is subject to title V and must obtain an operating permit.¹⁹

We also note that Permit Proviso 21 is key to compliance with the existing SO₂ requirements and limits the amount of fuel burned to 4,700,000 gallons in any consecutive twelve month period. However, the permit does not require those records be reported to ADEM and are not available to the public, making it unenforceable as a practical matter. This Proviso also limits the sulfur content of any fuel used and requires fuel content testing, but again the records are not reported to ADEM and are therefore not available to the public.

Commenters request that ADEM work expeditiously on enforcement actions to bring this Source into compliance with title V of the Clean Air Act. Because the Source's SO₂ emissions are permitted at 246.8 TPY and regularly exceed 100 TPY, they exceed the title V threshold, and the Source was required to obtain an operating permit. Thus, this Source is out of compliance with those requirements – and has been for many years – and must apply for and obtain a title V operating permit immediately.²⁰ Additionally, the Source switched the fuel used, which ADEM's inspectors noted in their inspections. But what the inspectors did not note was this fuel switch was not allowed in the Source's 1998 permit.²¹ The Source failed to request a modification to its 1998 permit for use of natural gas.

Moreover, ADEM's 1998 Engineering Analysis for the construction permit merely analyzed particulate emissions from the baghouse and did not consider

¹⁷ *Id.*

¹⁸ 42 U.S.C. §7661(2).

¹⁹ A review of ADEM's inspections records over the years confirms that the inspectors appear to have reviewed the Source's fuel oil usage to make sure it operated within the "4.7MM gallons" limit during any 12-month consecutive period. *See e.g.*, Memorandum from Brent A. Watson to Pamela W. Hunt, (Nov. 5, 2005) ("Fuel oil records were reviewed with no exceedances found."), <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=29746068&dbid=0>; *see also*, Memorandum from Brent A. Watson to Pamela W. Hunt, (Jan. 5, 2005) ("Fuel oil records were reviewed with no exceedances found."), <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=29746066&dbid=0>; *see also*, Memorandum from Brent A. Watson to Pamela W. Hunt, (Aug. 18, 2006) ("Fuel oil records were reviewed with no exceedances found."), <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=29764793&dbid=0>;

²⁰ The Source historically burned used fuel oil, which was confirmed in ADEM's inspection reports. *See*, Memorandum from Debra Spencer to Pam Hunt, (April 28, 2017), <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=30002100&dbid=0>.

²¹ *See*, Memorandum from Debra Spencer to Pam Hunt (June 7, 2018), ("Natural gas has been utilized as fuel since the last inspection; therefore, no fuel records were reviewed."), <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=31533634&dbid=0>; *see also*, Memorandum

emissions from any other emission points at the Source. The baghouse is now nearly 25 years old and assumptions regarding its 99.5% control efficiency are questionable. ADEM's analysis suggests that "controlled" particulate emissions from just the baghouse are 42.92 TPY, with uncontrolled emissions of 8,584 TPY. Here too ADEM's calculations include an "expected" amount of emissions based on what it indicates are "proposed operating hours of 4,200."²² However, the Source's permit contains no limits on the number of operating hours.

The permit also contains the following requirements in Proviso 18, which suggests there is also bucket elevator and dryer at the Source that also emit particulate matter:

- The bucket elevator shall be enclosed and sealed.
- The dryer shall be hooded at the feed and sealed at the burner end.
- Dust emissions created by the operation of the dryer shall be exhausted through the ducts and the control system by an enclosed fan.
- Dust emissions shall not be allowed to escape from enclosures or through seals due to holes or cracks in the enclosures or seals or due to inadequate or poor draft caused by leaks, blockages, or fan malfunctioning.
- Holes or cracks in enclosures or seals and/or inadequate or poor draft which allow dust emissions to escape the enclosures and/or seals must be promptly repaired.

Permit Proviso 19 contains the requirements for plant or haul roads and grounds. The Alabama SIP contains specific requirements to limit particulate matter ("PM") emissions from sources in the state – including this Source – from becoming airborne. Specifically, the rules prohibit a source from: (1) operating the source, including use of the roads within it, without taking reasonable precautions to prevent such fugitive dust emissions, and (2) allowing visible fugitive dust emissions beyond the lot line of the source.²³ While the Permit includes source-specific fugitive dust provisions, it fails to prohibit visible emissions beyond the Permittee's lot line. Limiting fugitive PM emissions is an applicable requirement for the Source both under the Alabama SIP, and the construction permit fails to include this requirement. The SIP specifically prohibits sources from emitting visible dust beyond the property line,²⁴ and the construction permit provisions contain no

from Debra Spencer to Pam Hunt (Aug. 23, 2019), <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=103253921&dbid=0>; *see also*, Memorandum from Debra Spencer to Pam Hunt (July 28, 2020), <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=104354271&dbid=0>; *see also*, Memorandum from Ceil M. Jones to Pam Hunt (Nov. 23, 2020), <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=104426689&dbid=0> ("Per Mr. Kraft, this plant uses natural gas only to fire the burner."); *see also*, Memorandum from Sara Mattingly to Pam Hunt (March 21, 2022), <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=104426689&dbid=0> ("Per Mr. Kraft, this plant uses natural gas only to fire the burner.")

²² *Id.* at 3.

²³ Ala. Admin. Code 335-3-4-.02(1), (2).

²⁴ Ala. Admin. Code 335-3-4-.02(2).

specific measures to ensure that visible dust emissions do not travel beyond the source's property line.

We request that ADEM revise the visible emissions provisions and the related monitoring and recordkeeping requirements of the construction permit via public notice and comment to include more specific measures regarding visible emissions at the lot line, including the real-time fenceline monitoring discussed below and make sure those revised measures contain enough detail to be enforced by ADEM, EPA, and the public.

There are likely other operations and emissions at this source, but as ADEM's eFile records are not available online, the public does not have access and knowledge of them. For example, Commenters do not know whether there is an asphalt storage system consisting of tanks, and if so, there should be a capture system to collect emissions from the tanks.²⁵ Furthermore, the lack of details and permit provisions for controls regarding the following equipment generally seen at similar sources is also of concern: hoppers, conveyors, screens, crushers, and truck loading station(s).²⁶ Thus, prior to the revision or issuance of any air permits as discussed above, we request a joint ADEM and EPA full inspection of all emission units at this Source, including an information request to the Source to conduct actual emission testing and preparation of a source-wide comprehensive emission inventory,²⁷ to be disclosed and shared with the public and Africatown community covering all criteria and hazardous air pollutants.

Finally, we request that the results of this enforcement action and that additional permitting and ADEM/EPA inspections also be shared with other Federal Agencies that provide funding to and/or contract with the Permittee. According to the Source's website, it is involved in numerous projects that appear to be funded at least in part by federal dollars. Its website explains that it

[M]anufacture[s] asphalt products at our four plant sites in Southwest Alabama. Our mixes are used in ALDOT, FHWA, FAA, County, and municipal applications.²⁸

Thus, as a recipient of federal funding Hosea O. Weaver & Sons, Inc. is subject to Title VI of the Civil Rights Act, among other laws. Figure 2 below provides a list of highways and includes several federal highway, while Figure 3 includes a list of airports where the Source has been involved in projects that also may have included federal funding. Finally, Figure 4, includes a listing of marine and port projects,

²⁵ See e.g., All American Asphalt, Permit to Operate No. G42348 A/N 576527 (Asphalt Storage System No. 3) (Aug. 18, 2016).

<https://xappprod.aqmd.gov/find//facility/AQMDsearch?facilityID=82207>. (Ex. 7).

²⁶ See e.g., All American Asphalt, Permit to Operate No. G66228 A/N 625347 (Air Pollution Control System) (Aug. 27, 2021). <https://xappprod.aqmd.gov/find//facility/AQMDsearch?facilityID=82207>. (Ex. 8).

²⁷ ADEM has authority under Proviso 11 and other authorities to request this information.

²⁸ See <https://www.hoseaweaver.com/about-us/>.

including those of the Alabama State Port Authority (ASPA), which are in part funded by the Federal Department of Transportation.²⁹

Figure 2. Examples of Hosea O. Weaver & Sons, Inc. Roads/Asphalt Paving Projects.³⁰


ROADS/ASPHALT PAVING & MANUFACTURING

Industry leader in road building and paving throughout SW Alabama and Northern Gulf Coast. Renowned for our ability to manufacture and install quality pavements on projects ranging from walking paths to multilane interstate highways.

<ul style="list-style-type: none"> ✓ I-65, Escambia County ✓ I-10, Mobile County ✓ SR-5, Clarke County ✓ US-29, Escambia County 	<ul style="list-style-type: none"> ✓ SR-10, Choctaw County ✓ City of Mobile Resurfacing ✓ US-90, Baldwin County ✓ SR-10, Wilcox County
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Figure 3. Examples of Hosea O. Weaver & Sons, Inc. Airport Projects.³¹



Airports:

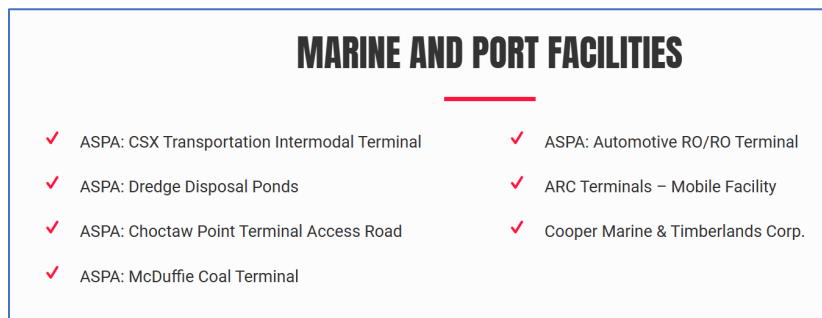
<ul style="list-style-type: none"> ✓ Mobile Regional Airport ✓ Mobile Downtown Airport ✓ Gulfport-Biloxi International Airport ✓ Jack Edwards National Airport: Gulf Shores, AL ✓ Atmore Municipal Airport 	<ul style="list-style-type: none"> ✓ Bay Minette Municipal Airport ✓ Dauphin Island Airport ✓ St. Elmo Airport ✓ Foley Municipal Airport ✓ Fairhope Airport
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²⁹ See e.g., “Construction Underway, AL Transfer Facility,” (March 2, 2009), <https://www.marinelink.com/news/construction-underway329844>.

³⁰ See <https://www.hoseaweaver.com/projects-services/>. (last visited June 5, 2023)

³¹ *Id.*

Figure 4. Examples of Hosea O. Weaver & Sons, Inc. Marine and Port Facilities Projects.³²



In determining a path forward, if any, for this Source’s continued operations, ADEM (and EPA) should consult with these Federal Agencies to ensure that the Permittee is and will continue to be in compliance with Title VI, and include any conditions necessary for such compliance in future permits.

V. ADEM must include additional violations in the Consent Order.

At a minimum, it appears the Permittee also violated Proviso 6 of its Permit, which required any emissions exceedances caused by an equipment breakdown to be reported to ADEM within 24 hours and to report to ADEM when the issue has been corrected. While the Permittee knew in mid-December that a damaged pipe and silicone seal caused the excess particulate matter emissions, they did not report the cause of this exceedance or their corrective measures until their February 27, 2023, letter responding to ADEM’s NOV. Consent Order at ¶ 12.³³ It appears this is ground for another violation and an increase in the penalty assessed.

Furthermore, when ADEM (and EPA) inspectors return to the area and meet with the surrounding neighbors to learn of their concerns, they will identify additional violations. Our expectation is that those violations will include Permit Proviso #15 and an increase in the penalty assessed until such time as the odors are controlled.

VI. ADEM must complete its inspection activities at this Source and obtain evidence of irreparable harm to human health and the environment due to these and other violations.

Exposure to the pollutants from this Source are of significant concern to Commenters. There are health impacts from the Source’s ongoing operations that impact those that live in the surrounding neighborhood, including those living on

³² *Id.*

³³ See <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=105038476&dbid=0>.

Chin Street. Still, even though it is required by Alabama law, there is nothing to indicate that ADEM even considered the health and safety of these Alabama residents in enforcing the Permit and proposing this Consent Order. The pollutants emitted from this Source include particulate matter, VOCs, HAPs, NO_x, and sulfur dioxide (SO₂). For example, according to the U.S. Environmental Protection Agency (“EPA”)

- Exposure to the types of particulate matter (PM) emissions contained in fugitive dust can result in “premature death in people with heart or lung disease, nonfatal heart attacks, irregular heartbeat, aggravated asthma, decreased lung function, and increased respiratory symptoms, such as irritation of the airways, coughing or difficulty breathing.”³⁴
- Short-term exposures to SO₂ can harm the human respiratory system and make breathing difficult. People with asthma, particularly children, are sensitive to these effects of SO₂.³⁵
- People exposed to toxic air pollutants at sufficient concentrations and durations may have an increased chance of getting cancer or experiencing other serious health effects. These health effects can include damage to the immune system, as well as neurological, reproductive (*e.g.*, reduced fertility), developmental, respiratory and other health problems. In addition to exposure from breathing air toxics, some toxic air pollutants such as mercury can deposit onto soils or surface waters, where they are taken up by plants and ingested by animals and are eventually magnified up through the food chain. Like humans, animals may experience health problems if exposed to sufficient quantities of air toxics over time.³⁶

Yet, in spite of all of these potential impacts and the known emissions from the violations addressed in the Consent Order, ADEM has not yet obtained any evidence that will allow it to consider impacts on the human health and environment of the community surrounding the Source in assessing the seriousness of the alleged violations to determine the appropriate penalty, as required under Ala. Code § 22-22A-5(18)c. Indeed, there is nothing in the proposed Consent Order to suggest that ADEM engaged the community in any manner prior to issuing the proposal to ascertain whether they experienced health threats during the potential four plus months of unauthorized particulate matter emissions escaping the Source boundaries. Indeed, the Source continued to operate and likely released particulate matter emissions beyond the border of its property during this four plus month

³⁴ See <https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm>.

³⁵ See <https://www.epa.gov/so2-pollution/sulfur-dioxide-basics>.

³⁶ See <https://www.epa.gov/haps/health-and-environmental-effects-hazardous-air-pollutants>.

period. ADEM has not yet taken these impacts into consideration. Instead, in considering the Seriousness of the Violation, the draft Consent Order indicates:

The Department is not aware of any evidence of irreparable harm to human health or the environment due to these violations.³⁷

However, there is nothing to indicate ADEM took any steps to find such evidence. We urge ADEM to reconsider its analysis of the harm to human health and the environment from these violation. An inspection of the Source should have made clear its proximity and impact to the Africatown neighborhood, including the Africatown Historic District recognized by the National Park Service National Register of Historic Places. For example, the distance for an ADEM inspector to walk from the entrance of the Hosea O. Weaver asphalt plant to the nearest Africatown home is less than ten minute walk.

Despite the fact that the Source was constructed in an area surrounded by historic residential homes, ADEM's inspectors failed to visit the neighbors, conduct a public hearing or public meeting for the community, or otherwise reach out to this historic environmental justice community to discuss and learn about health and environment impacts they have experienced from the Source from these violations and other significant impacts they experience on a daily basis. ADEM can easily meet with the neighbors because the distance from the entrance of the Hosea O. Weaver asphalt plant to the nearest historic Africatown home on Chin Street is less than a ten minute walk.

Moreover, while ADEM inspectors invested significant resources and had numerous conversations and communications with the Source, in addition to failing to contact the surrounding neighbors or engage with the surrounding environmental justice community, ADEM also failed to reach out to representatives of the Africatown neighborhood, despite knowing of our ongoing advocacy work on enforcement efforts for this Source and other sources that continue to plague the health and environment of this historic community. This is just the latest example of the lopsided and unequal manner in which ADEM implements the federal Clean Air Act program in this area and is of significant concern to Commenters.

Indeed, just as ADEM inspectors visited the Hosea O. Weaver & Sons, Inc. for the inspections that resulted in the proposed Consent Order, we think it is reasonable that ADEM engage the environmental justice neighbors who live within 500 feet from this asphalt plant to determine the health and environmental impacts of the proposed violations. Indeed, the Alabama statute requires ADEM to collect and assess that information. Therefore, Commenters respectfully request that ADEM inspectors meet with the neighbors to discuss and learn of the health and

³⁷ Consent Order at ¶ 13.A.

environmental impacts of this Source's emissions before finalizing this Consent Order.

When the inspectors talk with those who live on Chin Street, they will learn of their shared experiences since the Source began operations. The inspectors will learn of the horrific particulate matter, dust, noise, and toxic and hazardous air pollutant fumes that are from the Source's operations on nearly a daily basis for its over two decades of operation. There has been damage to the homes and property. Family members have moved to the area to be close to other family members, only to have to move away because of negative health effects created by their living near the Source. Moreover, grandparents on Chin Street cannot host holidays for their family's because grandchildren with asthma cannot be within the vicinity of the Source. Indeed, the inspectors will learn that there has indeed been irreparable harm to human health of surrounding neighbors and the neighbors' environment from the Source's operations. The inspections for these violations are not complete until ADEM meets with those that live in the homes surrounding the Source that are impacted by emissions from that the Source that are uncontrolled and escape the property boundary. We welcome the opportunity to facilitate meeting(s) with ADEM's inspectors and the Africatown community members impacted by this Source.

ADEM's proposed Consent Order failed to include an assessment of irreparable harm to the environment and threats to public health and safety from the long-occurring unauthorized emissions that form the basis of the violations alleged. The proposed Consent Order is void of any information on either requirement. Saying it is not aware of any evidence is not an assessment and is not acceptable to Commenters. ADEM cannot take a passive approach. ADEM's failure to meaningfully assess the seriousness of the violations is of significant concern to Commenters given the ongoing dust, odorous, toxic and hazardous air pollutant emissions from the Source that impact the surrounding community and results in a Consent Order that fails to comply with the requirements of Alabama law.

VII. Additional corrective measures are necessary to make sure the Source is in continuous compliance, including fence line monitoring.

While the proposed Consent Order includes some "corrective measures," they miss the mark. The proposed Consent Order indicates that Permittee would

- Implement quarterly glow tests to detect particulate matter leaks
- Continue to conduct frequent maintenance to ensure compliance

Consent Order at ¶ 9. Commenters are concerned that none of this information gets reported to ADEM and is therefore not available to the public to confirm the Source's compliance with its permitting requirements. Additionally, these corrective

measures are not included as requirements in the permit, and thus they are neither permanent nor enforceable. Commenters recommend the final Consent Order include provisions requiring Permittee to report the results of these measures to ADEM and that these provisions be memorialized via notice and comment in the Source's permits. Furthermore, the second provision is vague and lacks specificity as to what the owner/operator plans to do during its maintenance activities. As discussed above, the maintenance activities the Permittee had been following failed to detect the cause of these violations and failed to lead to regular and necessary maintenance at the Source, so it is unclear how continuing to do more of the same improves the situation. Instead, the Source should be required to install a bag leak detection system and alarm so that when the filter bags need to be replaced the Permittee is notified, as well as conduct maintenance checks at defined intervals and take corrective actions as warranted by those checks.

Second, there are no corrective measures addressing the community's ongoing complaints about the offsite emissions from odors and particulate matter emissions. Commenters request that ADEM's final Consent Order require the Source to develop, install, operate and maintain a real-time fenceline monitoring system capable of measuring particulate and odor emissions from the asphalt plant processes. The Consent Order should include provisions for the Source to develop a draft fenceline monitoring plan, which would be subject to public notice and comment, including public meeting and hearing. We encourage ADEM to learn from the experience of other permitting agencies that have required real-time fenceline monitoring for its sources, including provisions for asphalt plants.³⁸

VIII. Additional measures are needed to assess and control odors, VOCs and hazardous air pollutants.

For the past 25 years, the Source has violated Permit Proviso 15, which requires measures to abate obnoxious odors from the plant's operations. This Proviso reads as follows:

15. This permit is issued with the condition that, should obnoxious odors arising from the plant operations be verified by Air Division inspectors, measures to abate the odorous emissions shall be taken upon a determination by the Alabama Department of Environmental Management that these measures are technically and economically feasible.

³⁸ See e.g., <http://www.aqmd.gov/home/rules-compliance/rules/support-documents/rule-1180-refinery-fenceline-monitoring-plans#> (which included 2023 plans to extend the fenceline monitoring requirements to an asphalt plant, "Proposed Amended Rule 1180 Refinery Fenceline and Community Air Monitoring, Rule 1180 WGM#1," (Jan. 25, 2023)).

Odors continue to arise from the Source's operations and leave the property boundaries, which impacts the surrounding community. Commenters strongly urge that ADEM engage its inspectors to inspect the area surrounding the Source regularly and resolve the obnoxious odor issues. Odors can – and must – be addressed, as other permitting agencies have done.

For example, in 2020, the Mayor and Irvine City Council wrote a letter to the Chairman and Board of Directors of the South Coast Air Quality Management District (SCAQMD) regarding the multitude of complaints about noxious odors and pollutants from All American Asphalt plant that were impacting those who live and work in Irvine, as well as schools in the community.³⁹ As a result of this letter and other efforts, the SCAQMD conducted numerous inspections, conducted community meetings, created a website to regularly update the community,⁴⁰ issued numerous NOVs,⁴¹ conducted an air sampling initiative,⁴² provided easy access about that source's title V permit to the public,⁴³ and worked via an iterative process to address the odors from the asphalt plant.⁴⁴

The odors were addressed at the All American Asphalt Plant pursuant to regulatory requirements. The company made repairs to certain equipment, increased the use of odorant in the facility's processes, and rerouted trucks carrying asphalt away from residential neighborhoods, and the permitting agency required those trucks to utilize tarps.⁴⁵ The permitting agency further approved air quality permits for the crumb rubber system/asphalt blending system and the associated asphalt oil heater, electrostatic precipitators, and the carbon adsorption air

³⁹ Letter from The Irvine City Council to Chairman Burke, Board of Directors, South Coast Air Quality Management District, Request for Transparent and Proactive Measures to Address Ongoing and Potentially Dangerous Emissions in the City of Irvine, (Nov. 17, 2020), <https://www.aqmd.gov/docs/default-source/default-document-library/request-for-transparent-and-proactive-measures-to-address-ongoing-and-potentially-dangerous-emissions-in-the-city-of-irvine-november-17-2020.pdf?sfvrsn=8>.

⁴⁰ See <https://www.aqmd.gov/home/news-events/community-investigations/all-american-asphalt>.

⁴¹ SCAQMD, All American Asphalt – Compliance & Enforcement Activity, <https://www.aqmd.gov/home/news-events/community-investigations/all-american-asphalt/compliance-enforcement>.

⁴² See <http://www.aqmd.gov/home/news-events/community-investigations/all-american-asphalt/air-sampling-initiative>.

⁴³ See All American Asphalt, which is subject to operating permit requirements, <http://www.aqmd.gov/home/news-events/community-investigations/all-american-asphalt/AAA-permitting>; indeed, the plants has numerous operating permits for its operations, including 12 permits issued in August 2021 for numerous equipment, *see e.g.*, <https://xappprod.aqmd.gov/find//facility/AQMDsearch?facilityID=82207> (“Documents”, “Permits to Operate”).

⁴⁴ See <https://www.aqmd.gov/home/news-events/community-investigations/all-american-asphalt>.

⁴⁵ *Id.*

pollution control equipment,⁴⁶ all as a proposed long-term solution to the problem.⁴⁷ The permitting authority explained that all this equipment is designed to decrease odors from the All American Asphalt Plant.⁴⁸

Commenters urge ADEM to follow this example and require that the odors are controlled, particularly because what is characterized as “odors” from the Hosea O. Weaver Source are likely also hazardous air pollutants and may be the cause of the deleterious health impacts experienced by the surrounding community.

IX. In addition to an increase in the penalty, Commenters strongly urge ADEM to include a SEP in the Consent Order, which contains specific provisions to protect the overburdened environmental justice community.

We urge ADEM to work with the Source and *in addition to the penalty* include a Supplemental Environmental Project (SEP) with several provisions, including:

- **First**, resources to install and maintain community-based air quantity monitors to track offsite pollutants from the Source.
- **Second**, provide for purchase and installation of three large computer monitors (and supporting computers, with updated equipment every five years, for a total of 15 years) for use in indoor public spaces and another for outdoor public space placement in the Africatown community such as the Robert Hope Community Center, Whitley Elementary, the Mobile County Training School, and Kidd Park, along with 15 years of computer subscription and support services. The monitors would display the real-time fence-line monitoring data (and community-based monitoring data) for the Source so that community members can be aware of offsite air pollution from the source and adjust their schedules as needed.
- **Third**, we would like to see a SEP provision for Hosea O. Weaver & Sons, Inc. to post a placard at the entrance to the Source that indicates the number of consecutive days it has operated without the fence-line monitors showing an exceedance, where the placard is directly linked to the

⁴⁶ The facility applied for an air quality permit with South Coast AQMD for the installation of new odor control equipment via a research permit, which included conditions for extensive source testing for emissions of volatile organic compounds, speciated organic toxics, polycyclic aromatic hydrocarbons or PAHs, sulfur and metals in order to fully evaluate the effectiveness of the air pollution controls. See, South Coast AQMD Staff Response to Irvine City Council Letter, (Nov. 24, 2020), <https://www.aqmd.gov/home/news-events/community-investigations/all-american-asphalt>.

⁴⁷ See <https://www.aqmd.gov/home/news-events/community-investigations/all-american-asphalt/AAA-permitting>.

⁴⁸ See <https://www.aqmd.gov/home/news-events/community-investigations/all-american-asphalt>.

fenceline monitoring data.⁴⁹ See Figure 6 for an example of such a placard.

Figure 5. Example of Placard at Entrance to Source, Linked to Fenceline Monitor Data.

Hosea O. Weaver & Sons	
Plant #1	
	33
DAYS WITHOUT A FENCELINE AIR QUALITY VIOLATION	

X. ADEM must include additional violations in the Consent Order.

At a minimum, it appears the Permittee also violated Proviso 6 of its Permit, which required any emissions exceedances caused by an equipment breakdown to be reported to ADEM within 24 hours and to report to ADEM when the issue has been corrected. While the Permittee knew in mid-December that a damaged pipe and silicone seal caused the excess particulate matter emissions, they did not report the cause of this exceedance or their corrective measures until their February 27, 2023, letter responding to ADEM’s NOV. Consent Order at ¶ 12.⁵⁰ It appears this is ground for another violation and an increase in the penalty assessed.

Furthermore, when ADEM (and EPA) inspectors return to the area and meet with the surrounding neighbors to learn of their concerns, they will identify additional violations. Our expectation is that those violations will include Permit Proviso #15 and an increase in the penalty assessed until such time as the odors are controlled.⁵¹

⁴⁹ If the Permittee installs an electronic placard (as opposed to using a placard that it manually updates the number of days), the placard should be equipped with an automatic dimming feature so that the lights do not further disrupt the surrounding neighbors in the night.

⁵⁰ See <http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=105038476&dbid=0>.

⁵¹ See e.g., Alabama State Implementation Plan (SIP), which includes federally enforceable requirements for obnoxious odors because they have the ability to negatively impact the public health and welfare of the communities living near them. Ala. Admin. Code 335-3-1-.01; see also SIP definitions of “air pollution” and “air contaminant” that include “odor” Ala. Admin. Code 335-3-1-.02(d) and 335-3-1-.02(e).

XI. Until all pollutants from this Source are controlled and fence-line monitoring is in place, Commenters request that the Source curtail operations at this location.

The nearly 25 years of offsite pollution from the Hosea O. Weaver & Sons operations and the adverse health and environmental impacts felt day-after-day by the surrounding neighborhood community have resulted in the Source not being welcome in the Africatown neighborhood.

Commenters request that until all pollutants that the Clean Air Act and Alabama's State Implementation Plan require be controlled are addressed by enforceable permit conditions and controlled (including staying within the property boundaries), and until real-time fence-line monitors up-and-running with trackable data accessible by the community, that the Source curtail operations. Hosea O. Weaver & Sons has three other plants in the Mobile area and perhaps there is capacity to shift production to those other plants.

Conclusion

For the reasons discussed above, Commenters recommend that ADEM collect and take additional information into consideration before issuing a final Consent Order to the Permittee for the alleged violations. ADEM must also take into consideration the fact that the violations caused a threat to the health and environment of the surrounding environmental justice community – including those living on Chin Street within the Africatown Historic District boundaries – as required under Ala. Code § 22-22A-5(18)c, and modify the Consent Order as needed, an inquiry we believe would be best completed by meaningfully engaging with the surrounding community. ADEM should enhance the proposed corrective measures in the Consent Order to minimize future violations and their impacts on the impacted community. Such actions will ensure that any final Consent Order contains the penalties and other enhanced corrective measures necessary to address the permit, legal requirements, and other violations while protecting the Alabama environment and the health and safety of its residents. We request notification of any re-notice of the proposed Consent Order, proposed permits, and any final decisions regarding the Consent Order.

We request a call with ADEM the week of June 19th to discuss our comments and understand ADEM's next steps. Please feel free to contact us in the meantime if you or your staff have any questions about these comments. We look forward to receiving and reviewing the Department's final Consent Order and its response to our comments.

Sincerely,

Ramsey Sprague
President
Mobile Environmental Justice Action Coalition
Ramsey@MEJACoalition.org
(251) 593-2488

Michael Hansen
Executive Director
GASP
MHansen@gaspgroup.org

Enclosures

cc: Marilyn E. Elliott, Nondiscrimination Coordinator, Alabama Department of Environmental Management, mge@adem.alabama.gov,
civilrightsassistance@adem.alabama.gov

Jeaneanne Gettle, Acting Regional Administrator, EPA Region 4,
Gettle.Jeaneanne@epa.gov

Brian Holtzclaw, Section Chief, Environmental Justice and Children's Health Section, Strategic Programs Office, Office of the Regional Administrator, EPA Region 4, Holtzclaw.Brian@epa.gov

Carol Kemker, Director, Enforcement Compliance Assurance Division, EPA Region 4, Kemker.Carol@epa.gov

Caroline Freeman, Director, Air and Radiation Division, EPA Region 4,
Freeman.Caroline@epa.gov

Michael Sparks, Chief, Air Permits Section, EPA Region 4,
Sparks.Michael@epa.gov

Suong Vong, Team Lead, External Civil Rights Compliance Office, EPA Headquarters, Vong.Suong@epa.gov

JJ England, Monique Hudson, and Debashis Ghose, Office of Regional Counsel, EPA Region 4, England.Jj@epa.gov, Hudson.Monique@epa.gov and Ghose.Debashis@epa.gov

Sara L. Laumann, Laumann Legal LLC, Counsel to MEJAC,
Sara@LaumannLegal.com

Kristi Smith, Smith Environmental Law, Counsel to GASP,
Kristi@SmithEnvironmentalLaw.com

List of Exhibits

1	Alabama Department of Environmental Management, In the Matter of Hosea O. Weaver & Sons, Inc. Mobile, Mobile County, Alabama Facility ID No. 503-8069-X001, CONSENT ORDER NO. _____.
2	Public Notice for Proposed Consent Order Hosea O. Weaver & Sons, Inc.
3	ADEM Permit No. 503-8069-X001 (Sept. 22, 1998).
4	Letter from Ronald W. Gore, Chief, ADEM Air Division, to John Murphy, Hosea O. Weaver & Sons, Inc. (Aug. 4, 2022), http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=104966693&dbid=0 .
5	EPA EJScreen Report, 1 mile.
6	Letter from Michael Weaver, President, H. O. Weaver & Sons, Inc. to Ronald W. Gore, Chief, Air Division, ADEM (Aug. 29, 2022), http://lf.adem.alabama.gov/WebLink/DocView.aspx?id=104966694&dbid=0 .
7	Engineering Analysis for ADEM Permit No. 503-8069-X001.
8	All American Asphalt, Permit to Operate No. G42348 A/N 576527 (Asphalt Storage System No. 3) (Aug. 18, 2016). https://xapprod.aqmd.gov/find//facility/AQMDsearch?facilityID=82207 .
9	All American Asphalt, Permit to Operate No. G66228 A/N 625347 (Air Pollution Control System) (Aug. 27, 2021). https://xapprod.aqmd.gov/find//facility/AQMDsearch?facilityID=82207 .

Exhibit 1

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:)
)
Hosea O. Weaver & Sons, Inc.)
Mobile, Mobile County, Alabama)
Facility ID No. 503-8069-X001)
)

CONSENT ORDER

No. _____

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (“Department” or “ADEM”) and Hosea O. Weaver & Sons, Inc. (“Permittee”) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§22-22A-1 through 22-22A-17, as amended, and the Alabama Air Pollution Control Act, Ala. Code §§22-28-1 through 22-28-23, as amended, and the regulations promulgated pursuant thereto.

STIPULATIONS

1. Hosea O. Weaver & Sons, Inc., owns and operates an asphalt plant located at 1908 Bay Bridge Cutoff Road in Mobile, Alabama (the “Facility”). The Permittee operates the Facility under the authority of ADEM Permit No. 503-8069-X001 (“Permit”), issued to it on September 22, 1998.

2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§22-22A-1 through 22-22A-17, as amended.

3. Pursuant to Ala. Code §22-22A-4(n), as amended, the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 through 7671q, as amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Air Pollution Control Act, Ala. Code §§22-28-1 through 22-28-23, as

amended.

4. Air Permit No. 503-8069-X001 Proviso No. 7 states:

All air pollution control devices and capture systems for which this permit is issued shall be maintained and operated at all times in a manner so as to minimize the emissions of air contaminants. Procedures for ensuring that the above equipment is properly operated and maintained so as to minimize the emission of air contaminants shall be established.

5. Air Permit No. 503-8069-X001 Proviso No. 20 states:

This facility is subject to New Source Performance Standards (NSPS). This limits particulate emissions to 0.04 grains per dry standard cubic foot.

6. Air Permit No. 503-8069-X001 Proviso No. 10 states:

Written test results are to be reported to the Department within 15 working days of completion of testing.

DEPARTMENT'S CONTENTIONS

7. On June 28-29, 2022, ADEM performed EPA Reference Methods 5 (Particulate Matter) and Method 9 (Visible Emissions Observation) on the Facility and the results indicated that the Permittee was operating with particulate emissions at the maximum of the Permit limit.

8. On August 4, 2022, the Department issued a letter to the Permittee documenting concerns about its ability to maintain compliance given that there was no compliance margin. The Department requested the Permittee to provide a written response by August 25, 2022.

9. On August 29, 2022, the Permittee responded to the Department's August 4, 2022, letter stating that it would implement quarterly glow tests to detect particulate matter leaks and would continue to conduct frequent maintenance to ensure compliance.

10. On December 15, 2022, EML, LLC., performed EPA Reference Methods 5 and 9 on the Facility and the results indicated that the Permittee was operating in violation of the Permit with a particulate emissions average of 0.067 gr/dscf.

11. On February 8, 2023, the Department issued a Notice of Violation (“NOV”) to the Permittee for operating in violation of the Permit by emitting particulate emissions in excess of the 0.04 gr/dscf standard and failing to report the test results to the Department within 15 working days.

12. On February 27, 2023, the Permittee responded to the NOV stating that upon inspection of the Facility equipment following the December 15, 2022, tests, a damaged pipe and silicone seal were identified and repaired. In addition, the Permittee reported that 147 bags were replaced at the Facility on December 17, 2022.

13. Pursuant to Ala. Code §22-22A-5(18)c., *as amended*, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: The Department considers these violations to be serious. The Department is not aware of any evidence of irreparable harm to human health or the environment due to these violations.

B. THE STANDARD OF CARE: By not operating the plant in such a manner as to comply with the Permit, the Permittee did not exhibit the requisite standard of care.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department is not aware of any significant economic benefit as a result of the violation referenced herein.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is not aware of any efforts made by the Permittee to minimize or mitigate the effects upon the environment due to its non-compliance.

E. HISTORY OF PREVIOUS VIOLATIONS: On August 2, 2016, the Permittee was issued a Notice of Violation (NOV) due to excessive visible emissions. Subsequently, the Permittee was issued a Consent Order on December 2, 2016, for operating in violation of the Permit by exhibiting visible emissions greater than 20 percent opacity.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty it believes is warranted in this matter in the spirit of cooperation and the desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.

14. The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, as well as the need for timely and effective enforcement and, based upon the foregoing and attached contentions, has concluded that the civil penalty herein is appropriate and consistent with the historical penalty range imposed by

the Department for similar violations (*See* Attachment “A”, which is hereby made a part of Department’s Contentions).

15. The Department neither admits nor denies the Permittee’s Contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

PERMITTEE’S CONTENTIONS

16. Prior to the Department’s August 4, 2022 letter, the Permittee became aware of the results for the June 28-29, 2022 ADEM EPA Reference Methods 5 (Particulate Matter) testing via communications with the Department. Upon completion of the Department’s emissions testing, the Permittee notified the Department that diligent efforts were underway to minimize the emissions for the facility at 1908 Bay Bridge Cutoff Rd., Mobile, AL 36610 (Asphalt Plant No. 1). The Permittee has performed comprehensive inspections and regular maintenance to minimize the emissions for the facility for many years. The Permittee Air Permit compliance is well documented during prior inspections by the Department. The Permittee communicated with the Department prior to and after the EML, LLC follow-up emissions tests in compliance with the Air Permit requirements for the facility.

17. After receipt of the August 4 letter from the Department, the Permittee contacted the Department via emails and phone conversations on or before the August 25 due date and notified the Department that due to a serious family health crisis the written response to the August 4 Department letter would not be submitted on August 25, 2022. The health crisis was related to

an emergency intensive care condition of the Permittee Responsible Official's spouse on August 24, 2022.

18. The EML, LLC test results that revealed the non-compliant particulate emissions, averaging 0.067 gr/dscf were delivered to the Permittee's office between December 23, 2022 and January 2, 2023, when the Permittee's office and operations were completely shut down for Christmas break, which their office does every year (late December to early January) so that the Permittee's employees can enjoy this time with their families. The Permittee had limited email access at that time and the Permittee Responsible Official was not in the office until after January 2, 2023. Also, the Permittee Responsible Official was suffering from COVID 19 prior to and during the communications with the Department on January 19, 2023.

19. During and after the EML, LLC emissions testing on December 15, 2022, the Permittee identified the source of the non-compliant emissions and repaired the problem area in the baghouse equipment within a 2 day time frame (by December 17, 2022), working after hours and on the weekend to complete the repairs. The Permittee immediately notified the Department that the source of the non-compliant emissions was corrected, and that confirmation emissions testing by EML, LLC was scheduled and approved by the Department, in compliance with the Air Permit requirements. The results of the confirmation emissions testing by EML, LLC demonstrated full compliance with the Air Permit emissions requirements for the facility, and a drastic reduction in the particulate matter emissions for the facility, as a result of the repairs and maintenance efforts by the Permittee. The Permittee submitted the EML, LLC confirmation emissions test results within the 15 day requirement to the Department.

20. The Permittee neither admits nor denies the Department's Contentions. The Permittee consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

ORDER

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issues cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code §22-22A-5(18)c., *as amended*, as well as the need for timely and effective enforcement, and the Department believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this ORDER with the following terms and conditions:

A. The Permittee agrees to pay to the Department a civil penalty in the amount of \$24,000.00 in settlement of the violations alleged herein within forty-five days from the effective date of this Consent Order. Failure to pay the civil penalty within forty-five days from the effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. The Permittee agrees that all penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
Post Office Box 301463
Montgomery, Alabama 36130-1463

C. The Permittee agrees to comply with the terms, limitations, and conditions of the Permit and ADEM regulations everyday hereafter.

D. The parties agree that this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

E. That, subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Consent Order.

F. The Permittee agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

G. For purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. The Permittee also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee shall be limited to the defenses of *Force Majeure*, compliance with this Agreement and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Permittee, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Permittee) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed

economic circumstances, normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure*. Any request for a modification of a deadline must be accompanied by the reasons (including documentation) for each extension and the proposed extension time. This information shall be submitted to the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Permittee, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

H. The Department and the Permittee agree that the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the Site which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and the Permittee shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order if future orders, litigation or other enforcement action address new matters not raised in this Consent Order.

I. The Department and the Permittee agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any hearing on the terms and conditions of same.

J. The Department and the Permittee agree that this Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

K. The Department and the Permittee agree that final approval and entry into this Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the Order.

L. The Department and the Permittee agree that, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

M. The Department and the Permittee agree that any modifications of this Order must be agreed to in writing signed by both parties.

N. The Department and the Permittee agree that, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

HOSEA O. WEAVER & SONS, INC.

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT


(Signature of Authorized Representative)

Lance R. LeFleur
Director

Michael P. Weaver
(Printed Name)

President
(Printed Title)

Date Signed: 4/19/23

Date Executed: _____

Attachment A

Hosea O. Weaver & Sons, Inc.
 Mobile, Mobile County
 Facility ID No. 503-8069-X001

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Failure to control particulate emissions from baghouse stack.	2	\$10,000	\$5,000	\$2,500	
Failure to report test results within 15 working days.	1	\$2,500	\$0	\$0	
					Total of Three Factors
TOTAL PER FACTOR		\$22,500	\$5,000	\$2,500	\$30,000

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	
Ability to Pay (-)	
Other Factors (+/-)	- \$6,000
Total Adjustments (+/-) <i>Enter at Right</i>	- \$6,000

Economic Benefit (+)	
Amount of Initial Penalty	\$30,000
Total Adjustments (+/-)	-\$6,000
FINAL PENALTY	\$24,000

Footnotes

* See the "Department's Contentions" portion of the Order for a detailed description of each violation and the penalty factors.

Exhibit 2

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
P O Box 301463 (Zip 36130-1463)
1400 Coliseum Boulevard (Zip 36110-2400)
Montgomery, Alabama 36130-1463
(334) 271-7700

PROPOSED CONSENT ORDER

Account Code: 350

Mobile County

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§22-22A-1 to 22-22A-17, as amended, the Alabama Department of Environmental Management is proposing to issue a Consent Order to **Hosea O. Weaver & Sons, Inc.**, the owner/operator of a Drum-Mix Asphalt Plant with a Baghouse currently operating in **Mobile, Mobile County, Alabama.**

The violation consisted of failure to control particulate matter emissions from baghouse stack of the Facility in violation of the Permit.

The Department is proposing a civil penalty in the amount of **\$24,000.00**. The Order, if issued, would require Hosea O. Weaver & Sons, Inc. to pay the Alabama Department of Environmental Management within 45 days of the effective date, and comply with the terms, limitations, and conditions of the Permit and Department's regulations immediately.

Interested persons may submit written comments, including request for a hearing, within 30 days of the publication date of this notice, to:

Alabama Department of Environmental Management
Attention: Ronald W. Gore
Chief, Air Division
PO Box 301463
Montgomery, Alabama 36110-1463
airmail@adem.alabama.gov

The comment period shall end at the close of business 30 days from the publication date of this notice. A copy of the proposed Order is available on the ADEM web page at <http://adem.alabama.gov/compInfo/adminOrders.cnt>, or may be obtained by written request to the above address. A nominal fee for copying may be charged.

This notice is hereby given this **10th day of May, 2023**, by authorization of the Alabama Department of Environmental Management.

Lance R. LeFleur
Director

Nondiscrimination Statement: The Department does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in the administration of its programs.

Exhibit 3

ADEM

ALABAMA—
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

AIR PERMIT

PERMITTEE: Hosea O. Weaver and Sons, Inc.

LOCATION: Mobile, Alabama

PERMIT NUMBER

503-8069-X001

DESCRIPTION OF EQUIPMENT,
ARTICLE OR DEVICE

400 TPH Double Barrel Drum-Mix
Asphalt Plant with a Baghouse:
Including the Capability to Produce a
Recycled Asphalt Product (RAP) Mix
and Utilize a Reclaimed Fuel Oil

In accordance with and subject to the provisions of the Alabama Air Pollution Control Act of 1971, as amended, Code of Alabama 1975, §§22-28-1 to 22-28-23 (the "AAPCA") and the Alabama Environmental Management Act, as amended, Code of Alabama 1975, §§22-22A-1 to 22-22A-15, and rules and regulations adopted thereunder, and subject further to the conditions set forth in this permit, the Permittee is hereby authorized to construct, install and use the equipment, device or other article described above.

ISSUANCE DATE: September 22, 1998



Alabama Department of Environmental Management

Provisos

Hosea O. Weaver and Sons, Inc.

Facility No. 503-8069-X001

1. This permit is issued on the basis of Rules and Regulations existing on the date of issuance. In the event additional Rules and Regulations are adopted, it shall be the permit holder's responsibility to comply with such rules.
2. This permit is not transferable. Upon sale or legal transfer, the new owner or operator must apply for a permit within 30 days.
3. A new permit application must be made for new sources, replacements, alterations or design changes which may result in the issuance of, or an increase in the issuance of, air contaminants, or the use of which may eliminate or reduce or control the issuance of air contaminants.
4. Each point of emission will be provided with sampling ports, ladders, platforms, and other safety equipment to facilitate testing performed in accordance with procedures established by Part 60 of Title 40 of the Code of Federal Regulations, as the same may be amended or revised.
5. In case of shutdown of air pollution control equipment for scheduled maintenance for a period greater than **1 hour**, the intent to shut down shall be reported to the Department at least 24 hours prior to the planned shutdown.
6. In the event there is a breakdown of equipment in such a manner as to cause increased emission of air contaminants for a period greater than **1 hour**, the person responsible for such equipment shall notify the Department within an additional 24 hours and provide a statement giving all pertinent facts, including the duration of the breakdown. The Department shall be notified when the breakdown has been corrected.
7. All air pollution control devices and capture systems for which this permit is issued shall be maintained and operated at all times in a manner so as to minimize the emissions of air contaminants. Procedures for ensuring that the above equipment is properly operated and maintained so as to minimize the emission of air contaminants shall be established.
8. This permit expires and the application is cancelled if construction has not begun within 24 months of the date of issuance of the permit.

9. On completion of construction of the device for which this permit is issued, notification of the fact is to be given to the Chief of the Air Division. Authorization to operate the unit must be received from the Chief of the Air Division. Failure to notify the Chief of the Air Division of construction and/or operation without authorization could result in revocation of this permit.
10. Prior to a date to be specified by the Chief of the Air Division in the authorization to operate, emission tests are to be conducted by persons familiar with and using the EPA Sampling Train and Test Procedure as described in the Code of Federal Regulations, Title 40, Part 60, for the following pollutants. Written tests results are to be reported to the Department within 15 working days of completion of testing.

Particulates	(X)	Carbon Monoxide	()
Sulfur Dioxide	()	Nitrogen Oxides	()
Volatile Organic Compounds	()	Visible Emissions	(X)

11. Submission of other reports regarding monitoring records, fuel analyses, operating rates, and equipment malfunctions may be required as authorized in the Department's air pollution control rules and regulations. The Department may require stack emission testing at any time.
12. Additions and revisions to the conditions of this Permit will be made, if necessary, to ensure that the Department's air pollution control rules and regulations are not violated.
13. Nothing in this permit or conditions thereto shall negate any authority granted to the Department pursuant to the Alabama Environmental Management Act or regulations issued thereunder.
14. Precautions to prevent fugitive dust shall be taken so that provisions of the Department's rules and regulations shall not be violated.
15. This permit is issued with the condition that, should obnoxious odors arising from the plant operations be verified by Air Division inspectors, measures to abate the odorous emissions shall be taken upon a determination by the Alabama Department of Environmental Management that these measures are technically and economically feasible.
16. The Department must be notified in writing at least 10 working days in advance of all emission tests to be conducted and submitted as proof of compliance with the Department's air pollution control rules and regulations.

To avoid problems concerning testing methods and procedures, the following shall be included with the notification letter:

- (1) The date the test crew is expected to arrive, the date and time anticipated of the start of the first run, how many and which sources are to be tested, and the names of the persons and/or testing company that will conduct the tests.
- (2) A complete description of each sampling train to be used, including type of media used in determining gas stream components, type of probe lining, type of filter media, and probe cleaning method and solvent to be used (if test procedure requires probe cleaning).
- (3) A description of the process(es) to be tested, including the feed rate, any operating parameter used to control or influence the operations, and the rated capacity.
- (4) A sketch or sketches showing sampling point locations and their relative positions to the nearest upstream and downstream gas flow disturbances.

A pretest meeting may be held at the request of the source owner or the Department. The necessity for such a meeting and the required attendees will be determined on a case-by-case basis.

All test reports must be submitted to the Department within 15 days of the actual completion of the test, unless an extension of time is specifically approved by the Department.

17. Precautions shall be taken to prevent fugitive dust emanating from plant roads, grounds, stock piles, screens, dryers, hoppers, ductwork, etc.
18. The bucket elevator shall be enclosed and sealed. The dryer shall be hooded at the feed and sealed at the burner end. Dust emissions created by the operation of the dryer shall be exhausted through the ducts and the control system by an enclosed fan. Dust emissions shall not be allowed to escape from enclosures or through seals due to holes or cracks in the enclosures or seals or due to inadequate or poor draft caused by leaks, blockages, or fan malfunctioning. Holes or cracks in enclosures or seals and/or inadequate or poor draft which allow dust emissions to escape the enclosures and/or seals must be promptly repaired.
19. Plant or haul roads and grounds will be maintained in the following manner so that dust will not become airborne:
 - (a) by the application of water any time the surface of the road is sufficiently dry to allow the creation of dust emissions by the act of wind or vehicular traffic;
 - (b) by reducing the speed of vehicular traffic to a point below that at which dust emissions are created;

- (c) by paving;
- (d) by the application of binders to the road surface at any time the road surface is found to allow the creation of dust emissions; or
- (e) by any combination of the above methods which results in the prevention of dust becoming airborne from the road surface.

20. This facility is subject to New Source Performance Standards (NSPS). This limits particulate emissions to 0.04 grains per dry standard cubic foot.
21. Upon completion of construction, this facility shall not burn more than **4,700,000** gallons of oil during any consecutive twelve (12) month period with a sulfur content no greater than **0.7** percent as measured by procedures found in ASTM D129-64 (Reapproved 1978). The fuel oil sample to be tested for sulfur content shall be collected in accordance with ASTM D4177-82 or ASTM D4057-81. Records of oil usage and sulfur content must be kept in permanent form suitable for inspection. The records shall be retained for at least two years and made available upon request.
22. If this plant relocates to another site, this plant's Air Permit remains valid for this site unless or until it is revoked for failure to comply with ADEM Air Division Rules and Regulations. The owner or operator of this plant must provide written notification of the intent to relocate the plant to this site at least two weeks in advance. The written notification should include the planned construction beginning date and the projected startup date. Failure to provide this written notification is a violation of this permit condition and is grounds for revocation of this permit.
23. A properly maintained and operated device will be utilized to measure the pressure differential across the **baghouse**.
24. The particulate emission tests will be performed while the plant is producing a recycled asphalt product mix. The recycled pavement component of the mix will be measured as a percent of the total weight of the mix components. The maximum percent of the recycled component allowed in a recycled mix will be equal to or less than that measured during a particulate emissions test which indicates compliance.
25. Any performance tests required shall be conducted and data reduced in accordance with the test methods and procedures contained in each specific permit condition unless the Director (1) specifies or approves, in specific cases, the use of a reference method with minor changes in methodology, (2) approves the use of an equivalent method, or (3) approves the use of an alternative method, the results of which he has determined to be adequate for indicating whether a specific source is in compliance.

Supersedes
by 8/4/04
letter →

26. The following process is subject to the New Source Performance Standards (40 CFR 60, Subpart OOO - Standards of Performance for Nonmetallic Mineral Processing Plants):

(a) RAP crushing, screening and conveying process

27. Compliance with the opacity standards for sources subject to NSPS will be determined by conducting visible emission observations in accordance with EPA Reference Method 9 of Appendix A of the CFR, Title 40, Part 60. The minimum time of observation of each source will be 3 hours (30 six-minute averages), which may be broken into several shorter time frames (i.e., three (3) 60-minute observations of ten (10) 6-minute averages each). The observations will be made by an observer currently certified to make EPA Method 9 visible emission observations. The opacity observations will be conducted within 60 days of the source achieving maximum production rate but no later than 180 days of initial start-up of the facility. The visible observation report will be submitted to the Department within 15 days of taking the observations. **This provision applies to all NSPS Subpart OOO sources except the following:**

a) **Any baghouse that controls emissions from an individual storage bin,**

b) **Screens, transfer points on belt conveyors or any other affected facility, and**

c) **Any crusher at which a capture system is not used.**

Superseded
by 8/4/04
letter

→ 28. This facility is authorized to burn used fuel oil with an ash content not to exceed 0.6 % as measured by procedures found in ASTM D-482. Records of ash content must be kept in permanent form suitable for inspection. The records shall be retained for two (2) years and made available upon request.

29. Should this facility, at any time, exceed the limits for fuel oil usage or sulfur or ash content, this Department must be notified within ten (10) days of the exceedance.

30. Compliance with the opacity standards for sources subject to NSPS-Subpart OOO will be determined by conducting visible emission observations in accordance with EPA Reference Method 9 of Appendix A of the CFR, Title 40, Part 60. **According to the June 26, 1996, Subpart OOO revision, when determining compliance with the fugitive emissions standard for screens, transfer points on belt conveyors or from any other affected facility, the duration of the Method 9 observations may be reduced from three (3) hours (thirty 6-minute averages) to one (1) hour (ten 6-minute averages) only if the following conditions apply:**

a) **There are no individual readings greater than 10 percent opacity; and**

- b) **There are no more than three (3) readings of 10 percent for the 1-hour period.**

The observations will be made by an observer currently certified to make EPA Method 9 visible emission observations. The opacity observations will be conducted within 60 days of the source achieving maximum production rate but no later than 180 days of initial start-up of the facility. The visible observation report will be submitted to the Department within 15 days of taking the observations.

- 31. Compliance with the opacity standards for sources subject to NSPS-Subpart OOO will be determined by conducting visible emission observations in accordance with EPA Reference Method 9 of Appendix A of the CFR, Title 40, Part 60. **According to the June 26, 1996, Subpart OOO revision, when determining compliance with the fugitive emissions standard for any crusher at which a capture system is not used, the duration of the Method 9 observations may be reduced from three (3) hours (thirty 6-minute averages) to one (1) hour (ten 6-minute averages) only if the following conditions apply:**

- a) **There are no individual readings greater than 15 percent opacity; and**
- b) **There are no more than three (3) readings of 15 percent for the 1-hour period.**

The observations will be made by an observer currently certified to make EPA Method 9 visible emission observations. The opacity observations will be conducted within 60 days of the source achieving maximum production rate but no later than 180 days of initial start-up of the facility. The visible observation report will be submitted to the Department within 15 days of taking the observations.

September 22, 1998
Date

Exhibit 4

Alabama Department of Environmental Management
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

August 4, 2022

Mr. John Murphy
Hosea O. Weaver & Sons, Inc.
PO Box 8039
Mobile AL 36689

Dear Mr. Murphy:

RE: Hosea O. Weaver & Sons, Inc. – Mobile, AL
Air Permit No.: 503-8069-X001
Inquiry Regarding EPA Method 5 Test Results

On October 28, 2021 and November 12, 2021, the Department received complaints regarding strong odors and dust emanating from Hosea O. Weaver's 400 TPH drum-mix asphalt plant with baghouse (NSPS) located at 1908 Bay Bridge Cutoff Road in Mobile, Alabama.

Following the complaints, the Air Division Emissions Measurement Section (EMS) performed an EPA Reference Method 5 stack test at the facility on June 28-29, 2022. Hosea O. Weaver is subject to New Source Performance Standards (NSPS), Subpart I, which limits particulate matter emissions to 0.04 gr/dscf. The average particulate matter concentration from the three test runs conducted on June 28-29, 2022, was found to be 0.04 gr/dscf. The results of the Method 5 test indicate that, while HO Weaver was in compliance with the Air Permit, the facility was operating with particulate matter emissions at the maximum of the limit. The Department has concerns about this facility's ability to maintain compliance given that there is no compliance margin.

In order to evaluate this matter, HO Weaver is requested to provide a written response to the following questions by August 25, 2022:

1. Who is responsible for ensuring that this asphalt plant operates in compliance with all Air Division Rules and Regulations at all times?
2. What changes and/or maintenance, if any, were conducted at the plant between June 1, 2022 and June 29, 2022?
3. Please provide baghouse maintenance records, including specific dates and details, beginning May 1, 2022, through June 29, 2022.
4. Please provide any other information important to this issue to explain the test results and operations of this plant on a regular basis.

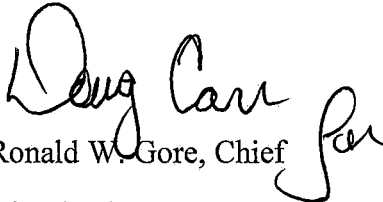


5. How does Hosea O. Weaver plan to ensure compliance given that the facility is currently operating at the maximum limit for particulate matter emissions with no margin for compliance?

Please remember that it is the responsibility of Hosea O. Weaver, Inc., to ensure compliance with all Air Permit requirements at all times of plant operation. The Department expects Hosea O. Weaver, Inc. to be proactive with maintenance procedures and necessary corrective actions in order to ensure continuous compliance.

Should you have any questions concerning this, or any other matter, please do not hesitate to contact Sara Mattingly at (334) 270-5639.

Sincerely,


Ronald W. Gore, Chief

Air Division

RWG/sam

Exhibit 5

1 mile Ring Centered at 30.728220,-88.059915, ALABAMA, EPA Region 4

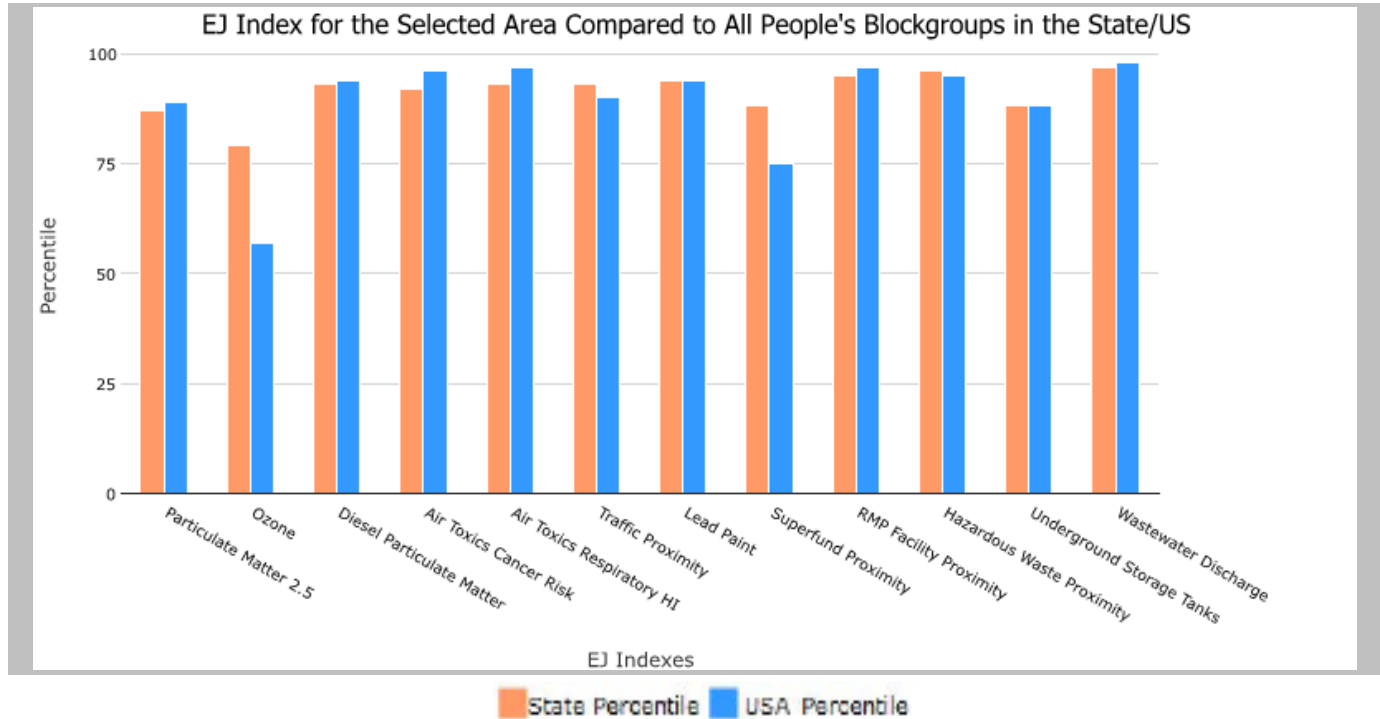
Approximate Population: 1,819

Input Area (sq. miles): 3.14

Hosea - EJ Screen 1 mile

Selected Variables	State Percentile	USA Percentile
Environmental Justice Indexes		
Particulate Matter 2.5 EJ index	87	89
Ozone EJ index	79	57
Diesel Particulate Matter EJ index*	93	94
Air Toxics Cancer Risk EJ index*	92	96
Air Toxics Respiratory HI EJ index*	93	97
Traffic Proximity EJ index	93	90
Lead Paint EJ index	94	94
Superfund Proximity EJ index	88	75
RMP Facility Proximity EJ index	95	97
Hazardous Waste Proximity EJ index	96	95
Underground Storage Tanks EJ index	88	88
Wastewater Discharge EJ index	97	98

EJ Indexes - The EJ indexes help users screen for potential EJ concerns. To do this, the EJ index combines data on low income and people of color populations with a single environmental indicator.



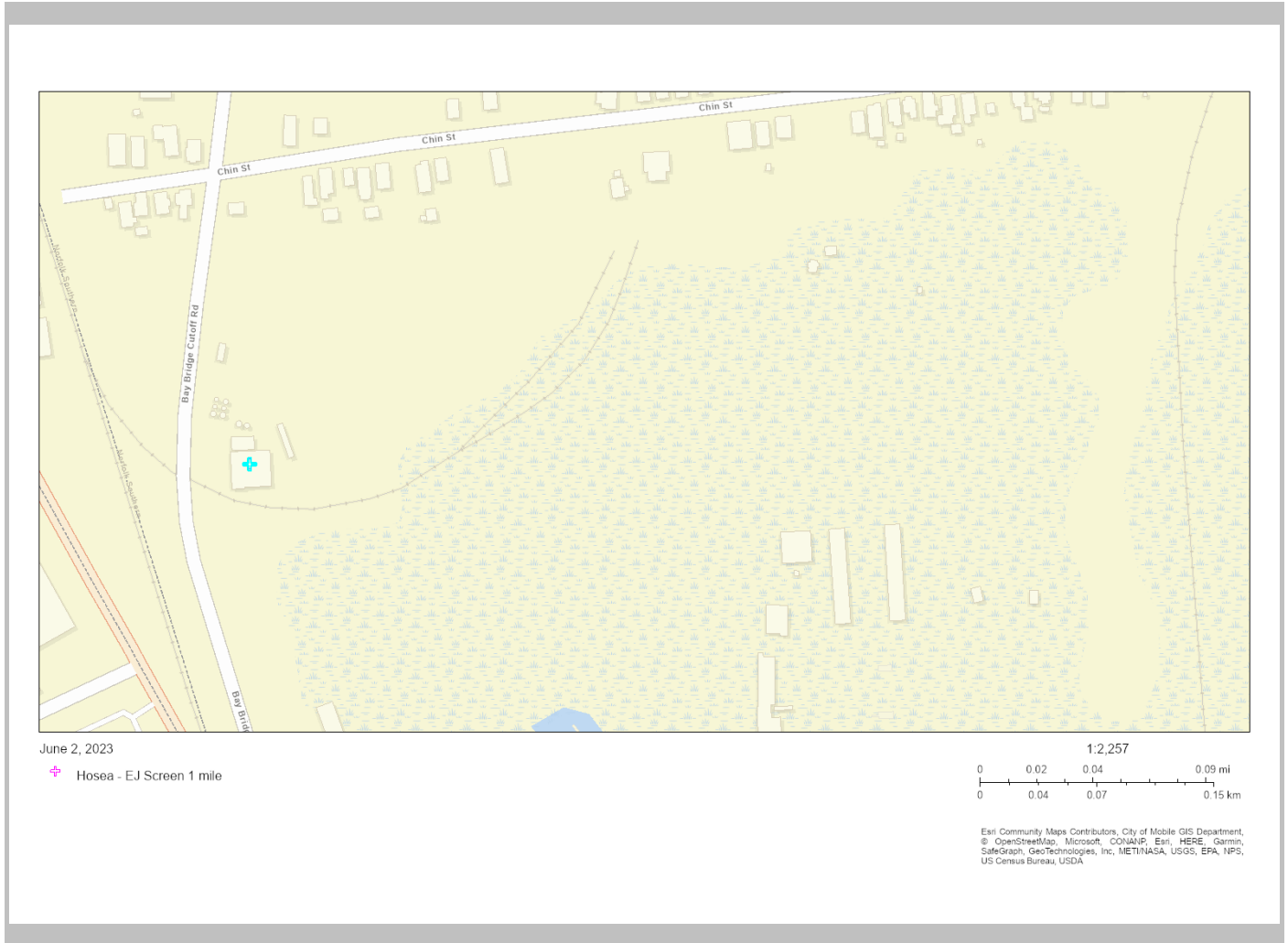
*Diesel particular matter, air toxics cancer risk, and air toxics respiratory hazard index are from the EPA's Air Toxics Data Update, which is the Agency's ongoing, comprehensive evaluation of air toxics in the United States. This effort aims to prioritize air toxics, emission sources, and locations of interest for further study. It is important to remember that the air toxics data presented here provide broad estimates of health risks over geographic areas of the country, not definitive risks to specific individuals or locations. Cancer risks and hazard indices from the Air Toxics Data Update are reported to one significant figure and any additional significant figures here are due to rounding. More information on the Air Toxics Data Update can be found at: <https://www.epa.gov/haps/air-toxics-data-update>.

1 mile Ring Centered at 30.728220,-88.059915, ALABAMA, EPA Region 4

Approximate Population: 1,819

Input Area (sq. miles): 3.14

Hosea - EJ Screen 1 mile



Sites reporting to EPA	
Superfund NPL	0
Hazardous Waste Treatment, Storage, and Disposal Facilities (TSDF)	1

EJScreen Report (Version 2.11)

1 mile Ring Centered at 30.728220,-88.059915, ALABAMA, EPA Region 4

Approximate Population: 1,819

Input Area (sq. miles): 3.14

Hosea - EJ Screen 1 mile

Selected Variables	Value	State Avg.	%ile in State	USA Avg.	%ile in USA
Pollution and Sources					
Particulate Matter 2.5 ($\mu\text{g}/\text{m}^3$)	9.04	8.92	60	8.67	63
Ozone (ppb)	37.6	39	36	42.5	19
Diesel Particulate Matter* ($\mu\text{g}/\text{m}^3$)	0.476	0.223	92	0.294	80-90th
Air Toxics Cancer Risk* (lifetime risk per million)	40	35	99	28	95-100th
Air Toxics Respiratory HI*	0.57	0.47	97	0.36	95-100th
Traffic Proximity (daily traffic count/distance to road)	1400	290	95	760	86
Lead Paint (% Pre-1960 Housing)	0.57	0.17	91	0.27	77
Superfund Proximity (site count/km distance)	0.043	0.051	65	0.13	38
RMP Facility Proximity (facility count/km distance)	4.1	0.46	99	0.77	97
Hazardous Waste Proximity (facility count/km distance)	3.7	0.9	96	2.2	82
Underground Storage Tanks (count/km ²)	3.6	1.9	82	3.9	70
Wastewater Discharge (toxicity-weighted concentration/m distance)	2.2	0.36	98	12	95
Socioeconomic Indicators					
Demographic Index	73%	38%	89	35%	92
Supplemental Demographic Index	25%	17%	87	15%	88
People of Color	80%	35%	85	40%	83
Low Income	66%	36%	88	30%	91
Unemployment Rate	14%	6%	87	5%	90
Limited English Speaking Households	0%	1%	0	5%	0
Less Than High School Education	22%	13%	79	12%	83
Under Age 5	2%	6%	26	6%	23
Over Age 64	12%	17%	28	16%	36
Low Life Expectancy	15%	23%	1	20%	11

EJScreen is a screening tool for pre-decisional use only. It can help identify areas that may warrant additional consideration, analysis, or outreach. It does not provide a basis for decision-making, but it may help identify potential areas of EJ concern. Users should keep in mind that screening tools are subject to substantial uncertainty in their demographic and environmental data, particularly when looking at small geographic areas. Important caveats and uncertainties apply to this screening-level information, so it is essential to understand the limitations on appropriate interpretations and applications of these indicators. Please see EJScreen documentation for discussion of these issues before using reports. This screening tool does not provide data on every environmental impact and demographic factor that may be relevant to a particular location. EJScreen outputs should be supplemented with additional information and local knowledge before taking any action to address potential EJ concerns.

1 mile Ring Centered at 30.728220,-88.059915, ALABAMA, EPA Region 4

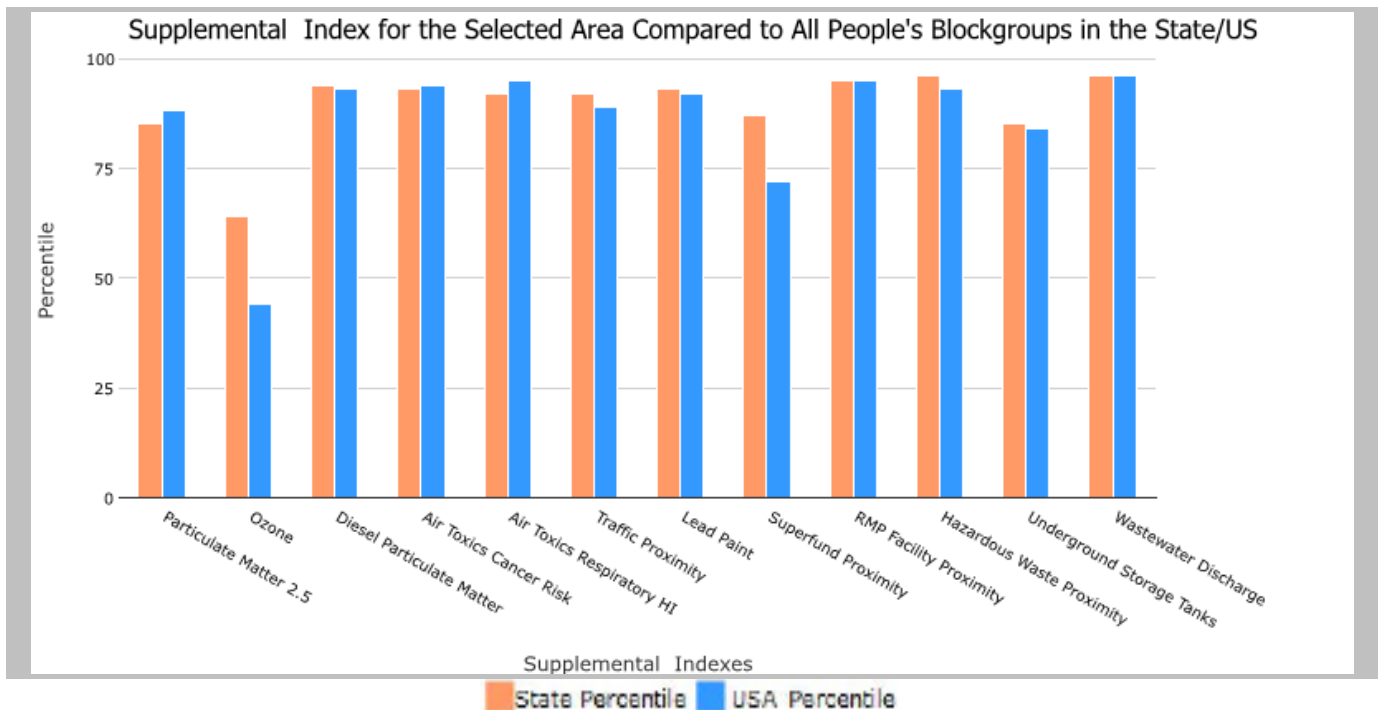
Approximate Population: 1,819

Input Area (sq. miles): 3.14

Hosea - EJ Screen 1 mile

Selected Variables	State Percentile	USA Percentile
Supplemental Indexes		
Particulate Matter 2.5 Supplemental Index	85	88
Ozone Supplemental Index	64	44
Diesel Particulate Matter Supplemental Index*	94	93
Air Toxics Cancer Risk Supplemental Index*	93	94
Air Toxics Respiratory HI Supplemental Index*	92	95
Traffic Proximity Supplemental Index	92	89
Lead Paint Supplemental Index	93	92
Superfund Proximity Supplemental Index	87	72
RMP Facility Proximity Supplemental Index	95	95
Hazardous Waste Proximity Supplemental Index	96	93
Underground Storage Tanks Supplemental Index	85	84
Wastewater Discharge Supplemental Index	96	96

Supplemental Indexes - The supplemental indexes offer a different perspective on community-level vulnerability. They combine data on low-income, limited English speaking, less than high school education, unemployed, and low life expectancy populations with a single environmental indicator.



This report shows the values for environmental and demographic indicators, EJScreen indexes, and supplemental indexes. It shows environmental and demographic raw data (e.g., the estimated concentration of ozone in the air), and also shows what percentile each raw data value represents. These percentiles provide perspective on how the selected block group or buffer area compares to the entire state, EPA region, or nation. For example, if a given location is at the 95th percentile nationwide, this means that only 5 percent of the US population has a higher block group value than the average person in the location being analyzed. The years for which the data are available, and the methods used, vary across these indicators. Important caveats and uncertainties apply to this screening-level information, so it is essential to understand the limitations on appropriate interpretations and applications of these indicators. Please see EJScreen documentation for discussion of these issues before using reports. For additional information, see: www.epa.gov/environmentaljustice.

Exhibit 6

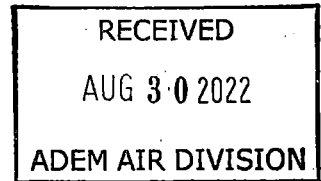


H. O. Weaver & Sons, Inc.

P.O. Box 8039 • Mobile, Alabama 36689-0039
(251) 342-3025 • Fax (251) 342-0108



August 29, 2022



Mr. Ronald W. Gore, Chief
Air Division
Alabama Department of Environmental Management
1400 Coliseum Blvd.
Montgomery, Alabama 36110-2400

RE: H. O. Weaver & Sons, Inc. – Mobile, AL
Air Permit No.: 503-8069-X001

Dear Mr. Gore:

This is in response to your letter dated August 4, 2022 notifying us that the recent EPA Reference Method 5 stack test results at the above facility was found to be at the maximum allowable limit of 0.04 gr/dscf. Below are the requested responses to your questions listed in your letter.

1. Michael Weaver, President & M. Corey Horton, Asphalt Plants Manager
2. Baghouse tube sheet and blow pipes were inspected early in the month of June. A small number of bags were changed after seeing dust around the cage top.
3. We have no formal records of baghouse maintenance during this time frame. This is partly due to personnel changes at this facility. H. O. Weaver will immediately begin documenting details of inspections and bag replacement count/location of the baghouse. We were inspecting tube sheet on a regular basis during this timeframe but possess no detailed records.
4. We survey our stack from many angles and inspect tube sheet and blow pipes on a regular basis. If any leakage appears we schedule a more thorough inspection and formulate and execute a maintenance plan to resolve the issue.
5. H. O. Weaver is implementing mandatory quarterly glow tests with fluorescent dust and black lights at all of our facilities to detect any leakage. We will continue to change bag filters as needed as well as change baghouse seals and drum seals as needed. In addition, we will be contacting Sanders Engineering & Analytical Services, Inc. to provide periodic stack test services to ensure our facilities remain in compliance.



While within tolerance of this facility's air permit, H. O. Weaver realizes that stack test results at the maximum allowable limit are not ideal and leave no room for error. We always strive to be good stewards of the community and environment.

Should you have any questions or require additional information please do not hesitate to call.

Very Truly Yours,
H. O. Weaver & Sons, Inc.

A handwritten signature in black ink, appearing to read "M. P. Weaver", written in a cursive style.

Michael Weaver
President

C: Sara Mattingly
File

Exhibit 7

Engineering Analysis
For
Hosea O. Weaver and Sons, Inc.
(503-8069-X001)

Hosea O. Weaver and Sons, Inc. of Mobile, Alabama has applied to the ADEM-Air Division for an Air Permit which would authorize the construction and operation of a 400 TPH drum-mix asphalt plant to be located at 1920 Cut Off Road in Mobile, Mobile County.

The proposed facility would include a 1998 ASTEC, Model Turbo 400, double barrel drum-mix asphalt plant with a rated capacity of 400 TPH. The process would involve sand and assorted sizes of crushed stone being dried in a rotary dryer and combined with purchased liquid asphalt to produce asphalt concrete for paving. The plant would be equipped with an ASTEC, Model RBH-75, baghouse that would remove dust particles from the exhaust gases generated in the drying process. The baghouse is designed to be capable of removing particulate matter with an efficiency in excess of 99%.

Hosea O. Weaver and Sons has proposed the production of a recycled asphalt product (RAP) mix. Therefore, according to Air Division policy, the recycled pavement component of the mix would be limited to equal or less than that measured during the required Method 5 particulate and Method 9 visible emissions testing. If, in the future, Hosea O. Weaver should propose to produce a mix containing greater than the aforementioned RAP percentage, then additional Method 5 and Method 9 emission testing would be required while producing a mix utilizing the increased RAP percentage.

This plant would be required to meet the New Source Performance Standards (NSPS), Subpart I, limit of ≤ 0.04 gr/dscf which would yield an allowable particulate emission rate of ≤ 14.69 lbs/hr or ≤ 64.34 TPY (Appendix A). According to Air Division policy, EPA Method 5 particulate and Method 9 visible emission testing would be required in order to demonstrate initial compliance. This emission testing should be conducted while the facility is operating at or near production capacity and utilizing the maximum desired RAP percentage.

Hosea O. Weaver and Sons has also proposed the utilization of a reclaimed fuel oil in the burner. The fuel oil ash content would be limited to $\leq 0.6\%$ for a plant equipped with a baghouse, and without requiring an additional Method 5 particulate emissions test. This requirement would be included as Permit Proviso No. 28. Should the ash content of the fuel oil exceed the aforementioned percentage, Hosea O. Weaver and Sons may then be required to conduct additional Method 5 particulate and Method 9 visible emission testing while burning the higher ash content fuel.

SO₂ emissions would be limited to 246.8 TPY by allowing this facility to burn no more than 4,700,000 gallons of fuel oil with a sulfur content not to exceed 0.7%. This requirement would be included as Permit Proviso No. 21 in the Air Permit. The expected SO₂ emissions

rate would be calculated at 84.0 lbs/hr or 176.4 TPY. Calculations for the allowable and expected emission rates may be found in Appendix A.

This facility would not be located within 100 km of any Class I Wilderness or Nonattainment Area. Construction and operation of this facility would not be expected to significantly impact either area.

This facility would not be considered "major" for any criteria pollutant, and, therefore, would not be required to undergo the Prevention of Significant Deterioration (PSD) review process. According to Air Division policy, a 15-day public comment period would be required due to the proposed location being classified as a greenfield site. The above public notice would begin on August 31, 1998, and expire on September 15, 1998.

This analysis indicates that the above noted source would meet the requirements of all applicable regulations of the ADEM-Air Division. I recommend that an Air Permit be issued to Hosea O. Weaver and Sons, Inc. incorporating the provisions of Appendix B, Appendix C, the cover letter, and pending any comments received during the public comment period.



Charles Desmond
Engineering Services Branch
Air Division

August 26, 1998

Date

cjd

APPENDIX A

CALCULATIONS

For

Hosea O. Weaver and Sons, Inc.
503-8069-X001

Type Plant: ASTEC, Model Turbo 400, Double Barrel Drum-Mix Asphalt Plant
Capacity: 400 TPH
Control Device: ASTEC, Model RBH-75 Baghouse
Flow Rate: 75,000 ACFM @ 280° F with 20% Moisture
Operating Hours: 14 hrs/day x 6 days/wk x 50 wks/yr = 4,200 hrs/yr
Type of Fuel: Reclaimed Fuel Oil

Particulate Emissions

Allowable: ≤ 0.04 gr/dscf from 40 CFR Part 60, Subpart I.

$$VA = \frac{VS (\text{°F}) + 460}{530}$$

$$75,000 \text{ acfm} = \frac{VS (280) + 460}{530}$$

$$75,000 \text{ acfm} = VS (1.40)$$
$$VS = 53,571.4 \text{ scfm}$$

$$\frac{53,571.4 \text{ scf}}{\text{m}} \left| \frac{0.80 (20\% \text{ moisture})}{\text{m}} \right| = 42,857.12 \text{ dscf/min (assuming 20\% moisture)}$$

$$\frac{\leq 0.04 \text{ gr}}{\text{dscf}} \left| \frac{42,857.12 \text{ dscf}}{\text{min}} \right| \left| \frac{60 \text{ min}}{\text{hr}} \right| \left| \frac{\text{lb}}{7,000 \text{ gr}} \right| = \leq 14.69 \text{ lbs/hr}$$

or

$$\frac{14.69 \text{ lbs}}{\text{hr}} \left| \frac{8,760 \text{ hrs}}{\text{yr}} \right| \left| \frac{\text{T}}{2,000 \text{ lbs}} \right| = \leq 64.34 \text{ TPY}$$

Uncontrolled: Emission factor of 4.9 lbs/T of asphalt produced taken from AIRS.

$$\frac{400 \text{ T}}{\text{hr}} \left| \frac{4.9 \text{ lbs}}{\text{T}} \right| = 1,960.00 \text{ lbs/hr}$$

or

$$\frac{1,960.0 \text{ lbs}}{\text{hr}} \left| \frac{8,760 \text{ hrs}}{\text{yr}} \right| \left| \frac{\text{T}}{2,000 \text{ lbs}} \right| = 8,584.80 \text{ TPY}$$

Controlled: Assuming 99.5% collection efficiency.

$$\frac{1,960.0 \text{ lbs}}{\text{hr}} \times 0.005 \text{ (99.5\% efficiency)} = 9.80 \text{ lbs/hr}$$

or

$$\frac{9.80 \text{ lbs}}{\text{hr}} \times \frac{8,760 \text{ hrs}}{\text{yr}} \times \frac{\text{T}}{2,000 \text{ lbs}} = 42.92 \text{ TPY}$$

Expected: Calculated using proposed operating hours of 4,200.

$$\frac{9.80 \text{ lbs}}{\text{hr}} \times \frac{4,200 \text{ hrs}}{\text{yr}} \times \frac{\text{T}}{2,000 \text{ lbs}} = 20.58 \text{ TPY}$$

SO₂ Emissions

Allowable: Hosea O. Weaver and Sons, Inc. would be limited by Proviso No. 21 to a fuel oil usage not to exceed 4,700,000 gallons per year (rolling average) and a sulfur content of ≤ 0.7%. This will establish Hosea O. Weaver and Sons' SO₂ allowable emission rate.

$$\frac{4,700,000 \text{ gal}}{\text{yr}} \times \frac{7.5 \text{ lbs}}{\text{gal}} \times 0.007 \text{ (0.7\% sulfur)} \times \frac{\text{T}}{2,000 \text{ lbs}} \times \frac{64 \text{ MW SO}_2}{32 \text{ MW S}} = 246.80 \text{ TPY}$$

Expected:

$$\frac{400 \text{ T}}{\text{hr}} \times \frac{7.5 \text{ lbs}}{\text{gal}} \times 0.007 \text{ (0.7\% sulfur)} \times \frac{2 \text{ gal}}{\text{T}} \times \frac{64 \text{ MW SO}_2}{32 \text{ MW S}} = 84.00 \text{ lbs/hr}$$

or

$$\frac{84.0 \text{ lbs}}{\text{hr}} \times \frac{4,200 \text{ hrs}}{\text{yr}} \times \frac{\text{T}}{2,000 \text{ lbs}} = 176.40 \text{ TPY}$$

Appendix B

Proposed Provisos

Hosea O. Weaver and Sons, Inc.

Facility No. 503-8069-X001

1. This permit is issued on the basis of Rules and Regulations existing on the date of issuance. In the event additional Rules and Regulations are adopted, it shall be the permit holder's responsibility to comply with such rules.
2. This permit is not transferable. Upon sale or legal transfer, the new owner or operator must apply for a permit within 30 days.
3. A new permit application must be made for new sources, replacements, alterations or design changes which may result in the issuance of, or an increase in the issuance of, air contaminants, or the use of which may eliminate or reduce or control the issuance of air contaminants.
4. Each point of emission will be provided with sampling ports, ladders, platforms, and other safety equipment to facilitate testing performed in accordance with procedures established by Part 60 of Title 40 of the Code of Federal Regulations, as the same may be amended or revised.
5. In case of shutdown of air pollution control equipment for scheduled maintenance for a period greater than **1 hour**, the intent to shut down shall be reported to the Department at least 24 hours prior to the planned shutdown.
6. In the event there is a breakdown of equipment in such a manner as to cause increased emission of air contaminants for a period greater than **1 hour**, the person responsible for such equipment shall notify the Department within an additional 24 hours and provide a statement giving all pertinent facts, including the duration of the breakdown. The Department shall be notified when the breakdown has been corrected.
7. All air pollution control devices and capture systems for which this permit is issued shall be maintained and operated at all times in a manner so as to minimize the emissions of air contaminants. Procedures for ensuring that the above equipment is properly operated and maintained so as to minimize the emission of air contaminants shall be established.
8. This permit expires and the application is cancelled if construction has not begun within 24 months of the date of issuance of the permit.

9. On completion of construction of the device for which this permit is issued, notification of the fact is to be given to the Chief of the Air Division. Authorization to operate the unit must be received from the Chief of the Air Division. Failure to notify the Chief of the Air Division of construction and/or operation without authorization could result in revocation of this permit.
10. Prior to a date to be specified by the Chief of the Air Division in the authorization to operate, emission tests are to be conducted by persons familiar with and using the EPA Sampling Train and Test Procedure as described in the Code of Federal Regulations, Title 40, Part 60, for the following pollutants. Written tests results are to be reported to the Department within 15 working days of completion of testing.

Particulates	(X)	Carbon Monoxide	()
Sulfur Dioxide	()	Nitrogen Oxides	()
Volatile Organic Compounds	()	Visible Emissions	(X)

11. Submission of other reports regarding monitoring records, fuel analyses, operating rates, and equipment malfunctions may be required as authorized in the Department's air pollution control rules and regulations. The Department may require stack emission testing at any time.
12. Additions and revisions to the conditions of this Permit will be made, if necessary, to ensure that the Department's air pollution control rules and regulations are not violated.
13. Nothing in this permit or conditions thereto shall negate any authority granted to the Department pursuant to the Alabama Environmental Management Act or regulations issued thereunder.
14. Precautions to prevent fugitive dust shall be taken so that provisions of the Department's rules and regulations shall not be violated.
15. This permit is issued with the condition that, should obnoxious odors arising from the plant operations be verified by Air Division inspectors, measures to abate the odorous emissions shall be taken upon a determination by the Alabama Department of Environmental Management that these measures are technically and economically feasible.
16. The Department must be notified in writing at least 10 working days in advance of all emission tests to be conducted and submitted as proof of compliance with the Department's air pollution control rules and regulations.

To avoid problems concerning testing methods and procedures, the following shall be included with the notification letter:

- (1) The date the test crew is expected to arrive, the date and time anticipated of the start of the first run, how many and which sources are to be tested, and the names of the persons and/or testing company that will conduct the tests.
- (2) A complete description of each sampling train to be used, including type of media used in determining gas stream components, type of probe lining, type of filter media, and probe cleaning method and solvent to be used (if test procedure requires probe cleaning).
- (3) A description of the process(es) to be tested, including the feed rate, any operating parameter used to control or influence the operations, and the rated capacity.
- (4) A sketch or sketches showing sampling point locations and their relative positions to the nearest upstream and downstream gas flow disturbances.

A pretest meeting may be held at the request of the source owner or the Department. The necessity for such a meeting and the required attendees will be determined on a case-by-case basis.

All test reports must be submitted to the Department within 15 days of the actual completion of the test, unless an extension of time is specifically approved by the Department.

17. Precautions shall be taken to prevent fugitive dust emanating from plant roads, grounds, stock piles, screens, dryers, hoppers, ductwork, etc.
18. The bucket elevator shall be enclosed and sealed. The dryer shall be hooded at the feed and sealed at the burner end. Dust emissions created by the operation of the dryer shall be exhausted through the ducts and the control system by an enclosed fan. Dust emissions shall not be allowed to escape from enclosures or through seals due to holes or cracks in the enclosures or seals or due to inadequate or poor draft caused by leaks, blockages, or fan malfunctioning. Holes or cracks in enclosures or seals and/or inadequate or poor draft which allow dust emissions to escape the enclosures and/or seals must be promptly repaired.
19. Plant or haul roads and grounds will be maintained in the following manner so that dust will not become airborne:
 - (a) by the application of water any time the surface of the road is sufficiently dry to allow the creation of dust emissions by the act of wind or vehicular traffic;

- (b) by reducing the speed of vehicular traffic to a point below that at which dust emissions are created;
 - (c) by paving;
 - (d) by the application of binders to the road surface at any time the road surface is found to allow the creation of dust emissions; or
 - (e) by any combination of the above methods which results in the prevention of dust becoming airborne from the road surface.
20. This facility is subject to New Source Performance Standards (NSPS). This limits particulate emissions to 0.04 grains per dry standard cubic foot.
21. Upon completion of construction, this facility shall not burn more than **4,700,000** gallons of oil during any consecutive twelve (12) month period with a sulfur content no greater than **0.7** percent as measured by procedures found in ASTM D129-64 (Reapproved 1978). The fuel oil sample to be tested for sulfur content shall be collected in accordance with ASTM D4177-82 or ASTM D4057-81. Records of oil usage and sulfur content must be kept in permanent form suitable for inspection. The records shall be retained for at least two years and made available upon request.
22. If this plant relocates to another site, this plant's Air Permit remains valid for this site unless or until it is revoked for failure to comply with ADEM Air Division Rules and Regulations. The owner or operator of this plant must provide written notification of the intent to relocate the plant to this site at least two weeks in advance. The written notification should include the planned construction beginning date and the projected startup date. Failure to provide this written notification is a violation of this permit condition and is grounds for revocation of this permit.
23. A properly maintained and operated device will be utilized to measure the pressure differential across the **baghouse**.
24. The particulate emission tests will be performed while the plant is producing a recycled asphalt product mix. The recycled pavement component of the mix will be measured as a percent of the total weight of the mix components. The maximum percent of the recycled component allowed in a recycled mix will be equal to or less than that measured during a particulate emissions test which indicates compliance.
25. Any performance tests required shall be conducted and data reduced in accordance with the test methods and procedures contained in each specific permit condition unless the Director (1) specifies or approves, in specific cases, the use of a

reference method with minor changes in methodology, (2) approves the use of an equivalent method, or (3) approves the use of an alternative method, the results of which he has determined to be adequate for indicating whether a specific source is in compliance.

26. The following process is subject to the New Source Performance Standards (40 CFR 60, Subpart OOO - Standards of Performance for Nonmetallic Mineral Processing Plants):

(a) RAP crushing, screening and conveying process

27. Compliance with the opacity standards for sources subject to NSPS will be determined by conducting visible emission observations in accordance with EPA Reference Method 9 of Appendix A of the CFR, Title 40, Part 60. The minimum time of observation of each source will be 3 hours (30 six-minute averages), which may be broken into several shorter time frames (i.e., three (3) 60-minute observations of ten (10) 6-minute averages each). The observations will be made by an observer currently certified to make EPA Method 9 visible emission observations. The opacity observations will be conducted within 60 days of the source achieving maximum production rate but no later than 180 days of initial start-up of the facility. The visible observation report will be submitted to the Department within 15 days of taking the observations. **This provision applies to all NSPS Subpart OOO sources except the following:**

- a) **Any baghouse that controls emissions from an individual storage bin,**
- b) **Screens, transfer points on belt conveyors or any other affected facility, and**
- c) **Any crusher at which a capture system is not used.**

28. This facility is authorized to burn used fuel oil with an ash content not to exceed **0.6 %** as measured by procedures found in ASTM D-482. Records of ash content must be kept in permanent form suitable for inspection. The records shall be retained for two (2) years and made available upon request.

29. Should this facility, at any time, exceed the limits for fuel oil usage or sulfur or ash content, this Department must be notified within ten (10) days of the exceedance.

30. Compliance with the opacity standards for sources subject to NSPS-Subpart OOO will be determined by conducting visible emission observations in accordance with EPA Reference Method 9 of Appendix A of the CFR, Title 40, Part 60. **According to the June 26, 1996, Subpart OOO revision, when determining compliance with the fugitive emissions standard for screens, transfer points on belt conveyors or from any other affected facility, the duration of the Method 9**

observations may be reduced from three (3) hours (thirty 6-minute averages) to one (1) hour (ten 6-minute averages) only if the following conditions apply:

- a) There are no individual readings greater than 10 percent opacity; and
- b) There are no more than three (3) readings of 10 percent for the 1-hour period.

The observations will be made by an observer currently certified to make EPA Method 9 visible emission observations. The opacity observations will be conducted within 60 days of the source achieving maximum production rate but no later than 180 days of initial start-up of the facility. The visible observation report will be submitted to the Department within 15 days of taking the observations.

31. Compliance with the opacity standards for sources subject to NSPS-Subpart OOO will be determined by conducting visible emission observations in accordance with EPA Reference Method 9 of Appendix A of the CFR, Title 40, Part 60. **According to the June 26, 1996, Subpart OOO revision, when determining compliance with the fugitive emissions standard for any crusher at which a capture system is not used, the duration of the Method 9 observations may be reduced from three (3) hours (thirty 6-minute averages) to one (1) hour (ten 6-minute averages) only if the following conditions apply:**

- a) There are no individual readings greater than 15 percent opacity; and
- b) There are no more than three (3) readings of 15 percent for the 1-hour period.

The observations will be made by an observer currently certified to make EPA Method 9 visible emission observations. The opacity observations will be conducted within 60 days of the source achieving maximum production rate but no later than 180 days of initial start-up of the facility. The visible observation report will be submitted to the Department within 15 days of taking the observations.

August 26, 1998
Date

Exhibit 8



South Coast Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4178
PERMIT TO OPERATE

Page 1
Permit No.
G42348
A/N 576527

This initial permit must be renewed ANNUALLY unless the equipment is moved, or changes ownership.
If the billing for the annual renewal fee (Rule 301.f) is not received by the expiration date, contact the District.

**Legal Owner
or Operator:**

ALL AMERICAN ASPHALT, ALL AMER AGGREGATES
P O BOX 2229
CORONA, CA 91718

ID 82207

Equipment Location: 10671 JEFFREY RD, IRVINE, CA 92602

Equipment Description :

Asphalt Storage System No. 3, consisting of:

1. Storage Tank, 35,000 Gallon capacity, above ground, with condenser.
2. Blue Smoke Capture system.
3. Two Hot Oil circulating pumps, 92 gpm each, in common with Asphalt Storage Systems Nos. 1 and 2.

Conditions :

1. Operation of this equipment shall be conducted in accordance with all data and specifications submitted with the application under which this permit is issued unless otherwise noted below.
2. This equipment shall be properly maintained and kept in good operating condition at all times.
3. This tank shall not be operated unless it is vented through the blue smoke capture system.



FILE COPY

South Coast Air Quality Management District
Certified Copy



PERMIT TO OPERATE

NOTICE

In accordance with Rule 206, this Permit to Operate or copy shall be posted on or within 8 meters of the equipment.

This permit does not authorize the emission of air contaminants in excess of those allowed by Division 26 of the Health and Safety Code of the State of California or the applicable Rules and Regulations of the South Coast Air Quality Management District (SCAQMD). This permit cannot be considered as permission to violate existing laws, ordinances, regulations or statutes of other government agencies.

Executive Officer

By Dorris M. Bailey/RH02

8/18/2016



Exhibit 9



South Coast Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4178
PERMIT TO OPERATE

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Permit No.
G66228
A/N 625347

This initial permit must be renewed ANNUALLY unless the equipment is moved, or changes ownership.
If the billing for the annual renewal fee (Rule 301(d)) is not received by the expiration date, contact the District.

**Legal Owner
or Operator:**

ID 82207

ALL AMERICAN ASPHALT, ALL AMER AGGREGATES
P O BOX 2229
CORONA, CA 91718

Equipment Location: 10671 JEFFREY RD, IRVINE, CA 92602

Equipment Description :

Air Pollution Control System, consisting of:

1. Cyclone Separator, Astec, 12'-0" Dia. x 16'-0" L., with a Collecting Screw Conveyor, 10-Hp.
2. Baghouse, Astec, Model RBH-112-WSP, Pulse Jet Cleaning Type, 1,280 Filter Bags, each 8" Dia. x 10'-0" L., 26,822 Sq.Ft Total Filter Area, One Discharging Screw Conveyor, and a Bag Leak Detection System, Envea, Model Dust Alarm 40.
3. Exhaust System with Two 200-Hp Blowers venting a Drum Mixer.
4. Conveyor, Screw, SC-2, 7.5 Hp.

Conditions :

1. Operation of this equipment shall be conducted in accordance with all data and specifications submitted with the application under which this permit is issued unless otherwise noted below.
2. This equipment shall be properly maintained and kept in good operating condition at all times.
3. This equipment shall be operated in compliance with all applicable requirements of Rule 1155.
4. Dust collected shall be discharged only into enclosed containers or returned to process and shall not be handled in a manner that may result in the re-release of collected material to the atmosphere.
5. The operator shall install and maintain a differential pressure gauge to accurately indicate the static pressure differential, in inches water column, across the filter bags.
6. In operation, the pressure differential shall be maintained between 0.1 to 6 inches of water column.
7. This equipment shall not be operated unless the bag leak detection system is in full use.



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PERMIT TO OPERATE

8. Records shall be maintained to demonstrate compliance with the Conditions on this permit. Records shall be kept in a format acceptable to the South Coast AQMD, shall be retained at the facility for a minimum of five years, and shall be made available to South Coast AQMD personnel upon request.

NOTICE

In accordance with Rule 206, this Permit to Operate or copy shall be posted on or within 8 meters of the equipment.

This permit does not authorize the emission of air contaminants in excess of those allowed by Division 26 of the Health and Safety Code of the State of California or the applicable Rules and Regulations of the South Coast Air Quality Management District (SCAQMD). This permit cannot be considered as permission to violate existing laws, ordinances, regulations or statutes of other government agencies.

Executive Officer

BY JASON ASPELL/RH02

8/27/2021



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